

FACE SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

REPEALS FOR FILING

MAY 4 1972

Office of Administrative Hearings

**ENDORSED**  
APPROVED FOR FILING  
(Gov. Code 11380.2)  
MAY 19 1972

Office of Administrative Hearings

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: May 3, 1972

By: \_\_\_\_\_

Director

(Title)

**FILED**

In the office of the Secretary of State  
of the State of California

MAY 19 1972

At 4:10 o'clock P.M.

EDMUND G. BROWN Jr. Secretary of State

By: *Marjorie R. Brashers*  
Deputy Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

Title 22, Division 2  
Subdivision 4

Repeal:

Chapter 1. Maternity Care, 30001 through 30365

Chapter 2. Institutions for Children, 32001 through 32385

Chapter 3. Day Nurseries, 34001 through 34575

Chapter 4. Adoptions, 36001 through 36421

Chapter 5. Child Placing Agencies, 38001 through 38211

Chapter 6. Boarding Homes for Children and Aging Persons, 40001 through 40527

Chapter 7. Institutions for Aging Persons, 42001 through 42339

Chapter 8. Continuing Care Agreements, 42501 through 42869

Chapter 9. Deposits Subscriptions on Continuing Care Contracts, 42881 through 42987

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(Pursuant to Government Code Section 11380.1)

10-051

REQUIRED SERVICE PROGRAMS - ALL COUNTIES (Continued)

10-051

.5 Out-of-Home Services

- .51 Adult applicants or recipients, age 18 years or over, unable to remain in their own homes or other independent settings because they require care, shall be placed in licensed or certified facilities. They shall be provided social services to assist as needed with placement, care, adjustment, discharge, or transfer into or from a foster family setting, half-way house, or nonmedical board and care facility. Social services as needed and assistance with placement, adjustment, discharge, or transfer into or from an intermediate care facility, nursing home, or hospital shall also be provided.

- .52 Children who are under 18 years of age, who require care, and who cannot remain in their own homes, shall be provided temporary or long-term 24-hour care in licensed facilities such as: emergency shelter care, foster family care, group care, institutional care, or residential treatment facility. Services to children in out-of-home care shall include, but not be limited to placement, care, supervision, adjustment, and discharge.

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30-251

**OBJECTIVES**

30-251

Adult applicants or recipients, 18 years of age or over,  
who cannot remain in their own homes or other independent  
setting, shall be placed in licensed or other certified  
facilities. They shall be provided social services to  
assist as needed with placement, care, adjustment,  
discharge, or transfer into and from a foster family  
setting, half-way house, or nonmedical board and care  
facility. Social services as needed and assistance with  
placement, adjustment, discharge, or transfer into or from  
an intermediate care facility, nursing home, or hospital  
shall also be provided.

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30-255 SERVICES IN OUT-OF-HOME CARE (Continued)

30-255

- .4 Private facilities providing care for adult applicants or  
recipients 18 years of age or over shall be licensed.  
Family Care Homes shall be certified.

CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATION  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

30-265 TYPES OF OUT-OF-HOME CARE FACILITIES

30-265

.1 Nonmedical Out-of-Home Care

Recipients who receive a public assistance grant based on the  
need for personal care and supervision due to physical or mental  
handicap may reside in the home of a relative, friend, family  
care home, residential care facility, half-way house, and other  
nonmedical board-and-care arrangement.

The person with  
whom the recipient lives shall provide opportunities to engage  
in religious, social, and recreational activities within the  
recipient's capacity.

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30-265 TYPES OF OUT-OF-HOME CARE FACILITIES (Continued)

30-265

.12 Group II

A person in this group needs more skilled and intensive care. In addition to the care provided as set forth in .11 above for Group I Nonmedical Out-of-Home Care, he also requires and receives one or more of the following:

30-265 TYPES OF OUT-OF-HOME CARE FACILITIES (Continued)

30-265

.124 Supervision in or away from home because of physical or mental incapacities such as general feebleness, tendency to wander, mild mental confusion, mental retardation, etc.; or

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30-301

## OBJECTIVES

30-301

Children who are under 18 years of age, who require care, and who cannot remain in their own homes, shall be provided temporary or long-term 24-hour care in licensed facilities such as: emergency shelter care, foster family care, group care, institutional care, or residential treatment facility. Services to children in out-of-home care shall include, but not be limited to, placement, care, supervision, adjustment, and discharge.

30-309

## COUNTY WELFARE DEPARTMENT RESPONSIBILITY (Continued)

30-309

.5

Assure that only licensed foster homes and group care facilities are used for the placement of children who are under 18 years of age.

.6

Assure that when a child, who is under 18 years of age, is granted AFDC, while in placement in an unlicensed foster home or group care facility, the county shall immediately determine if the home or group facility meets licensing standards and can be licensed. If the home or facility cannot be licensed, a new plan shall be made to provide care for the child.

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 WITH THE SECRETARY OF STATE**  
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44-209

44-209 MINIMUM NEEDS OF RECIPIENTS IN NONMEDICAL BOARD AND CARE  
 AND INTERMEDIATE CARE FACILITIES (Continued)

AB  
 ATD  
 OAS

2 Definitions and General Information

21 Out-of-Home Care

"Out-of-home care" as used herein is a protective living arrangement outside the individual's own home where, as a minimum, he receives board, room, personal care and designated supplementary services related to his individual needs. (See .3 below)

"Out-of-home care" within the scope of these regulations includes care provided in:

- a. Facilities licensed to provide residential care,
- b. State certified family care homes,
- c. Homes or other facilities which provide personal care and supervision and in the judgment of the county substantially meet licensing requirements but are not licensed because, under state law, they are not subject to any licensing requirements.

On and after October 1, 1972, "out-of-home care" within the scope of these regulations may include care in a home or facility which is subject to licensing only if application for a license has been filed but not yet acted upon.

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(Pursuant to Government Code Section 11380.1)

- .11 A child under age 18 is eligible for payment of AFDC while in foster care if the foster family home or private institution is licensed except that:

44-323 PAYMENTS FOR CHILDREN IN FOSTER CARE (Continued)

44-323

AFDC

- .12 A child in foster care who becomes ineligible for AFDC after the first day of the month is entitled to payment for the entire month if he or she remains in the foster family home or institution.
- .13 Subsequent to June 30, 1970, federally ineligible dependent children placed under the supervision of the probation department shall be eligible for state participation in the payment to the boarding home or private institution only when there is a written agreement between the county welfare department and the probation department as specified in Sections 30-321.15 and 29-405.

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These regulations are to be repealed effective June 18, 1972:

Section 30-317 Children Over 16

Section 44-323.12

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Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

State Department of Social Welfare

(Agency)

Dated: May 19, 1972

By:

Director

(Title)

FILED

In the office of the Secretary of State  
 of the State of California

MAY 19 1972

At 3:10 o'clock P.M.

EDMUND G. BROWN Jr., Secretary of State

By: *Mervin R. Kershner*  
 Deputy Secretary of State

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After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part I, Chapter 4.5) and pursuant to the authority vested by Sections 10552, 10553, 10554 and 10604 of the Welfare and Institutions Code, the Department of Social Welfare hereby repeals, amends, and adopts regulations referred to in Title 22, California Administrative Code, as hereinafter set forth.

These regulations do not contain any building standards.

Revise:

Section 10-051.51  
 10-051.52  
 30-251  
 30-255.4  
 30-265.1  
 30-265.12  
 30-265.124  
 30-301  
 30-309.5  
 30-309.6  
 44-209.21  
 44-323.11

Repeal:

Section 30-317  
 44-323.12

Renumber:

Section 44-323.13 to 44-323.12  
 44-323.14 to 44-323.13

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Title 22, Division 2  
Subdivision 4

Institutions and Boarding Homes for Persons Aged 16 and Above

Adopt:

Chapter 1. General Provisions and Definitions

Chapter 2. Licensing Agencies

Chapter 3. Adoptions and Child Placing Agencies

Chapter 4. Minimum Standards for Facilities for Children

Chapter 5. Minimum Standards for Residential Care Homes for Adults

Chapter 6. Continuing Care Agreements

Chapters 1, 2, and 5 - Recodified and Revised following Public Hearing

Chapters 3, 4, and 6 - Recodified

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ADOPT SUBDIVISION 4. INSTITUTIONS AND BOARDING HOMES FOR PERSONS AGED 16  
AND ABOVE

CHAPTER 1. GENERAL PROVISIONS  
AND DEFINITIONS

Article 1. General Provisions

30001 STATUTORY AUTHORITY. Welfare and Institutions Code Sections  
16000 through 16318.

30003 LICENSING JURISDICTION. A license shall be obtained from the  
State Department of Social Welfare or an accredited licensing agency by any  
person, association or corporation maintaining or conducting any nonmedical  
institution, boarding home, day nursery, facility for the aged, or other  
place for the reception, or care of persons of any age  
or which  
engages in the finding of homes for children under 16 years of age or places  
any such child in any home or other place either for temporary or permanent  
care or adoption.

A license is not required if care is provided by the following:

- (a) A person related by blood or affinity within the second degree.
- (b) A guardian.
- (c) A close friend of a child's parent or guardian if:
  - (1) Consent is given by the parent or guardian.
  - (2) The children are from one family.
  - (3) The care is provided without cost.

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**30003 LICENSING JURISDICTION (Continued).**

(4) Care is only given occasionally or not more than three hours per day on a regular basis.

(5) Receiving and caring for the child would not jeopardize the child's health, welfare or safety.

(d) A close friend of an adult if the care is incidental and part of a shared living arrangement and the adult was not received into the home of the friend for the purpose of being cared for.

(e) A facility under the/ license jurisdiction of another state agency.

(f) Any facility caring for persons of any age which the State Department of Social Welfare finds in accordance with Welfare and Institutions Code Section 16200 is regulated by other provisions of law which provide standards which accomplish the purposes of licensure.

**30005 SUBSTANTIAL CONFORMITY.** Facilities which demonstrate substantial conformity to the rules, regulations and standards of the State Department of Social Welfare, but which fail to conform in every detail may be licensed when the extent of deviation from the rules, regulations and standards does not concern a life safety standard or a specific statutory requirement and when it is determined by the State Department of Social Welfare that licensing of the facility is in the best interest of the persons receiving care. Renewal of a license issued on the basis of substantial conformity is contingent upon correction of deviations according to an agreed upon plan or continued determination that the deviations are not hazardous to the persons receiving care.

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(Pursuant to Government Code Section 11380.1)

**Article 2. Definitions**

**30011 RESIDENTIAL CARE HOMES FOR ADULTS.** Residential care homes for adults (persons 18 years of age and over) are defined as follows:

(a) **FAMILY RESIDENTIAL CARE HOME.** A family residence in which room, board, and nonmedical personal care services including supervision of and assistance with dressing, eating, personal hygiene, daily activity, health maintenance, transportation and protective safeguards for one to six adults are provided as needed.

(b) **SMALL RESIDENTIAL CARE HOME.** A residence in which care is provided as described in (a) above for 7 - 15 adults.

(c) **LARGE RESIDENTIAL CARE HOME.** A residence in which care is provided as described in (a) above for 16 or more adults.

**30013 BOARDING HOMES FOR CHILDREN.** Boarding homes for children (persons under 18 years of age) are defined as follows:

(a) **FOSTER FAMILY HOME.** A family residence in which 24-hour care is provided for not more than six children, including children of the foster family.

(b) **SPECIAL BOARDING HOME.** A family residence in which 24-hour care is provided for 7 - 15 children, including children of the foster family.

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**30013 BOARDING HOMES FOR CHILDREN (Continued).**

(c) **PARENT-CHILD BOARDING HOME.** A family residence which provides accommodations to parents and care for their children while the parents are away, for not more than six children under 18 years of age, including the foster mother's own children, nor more than four family units, including the foster family unit and employees and their children in residence.

**30015 GROUP CARE FACILITIES FOR CHILDREN.** Group care facilities for children (persons under 18 years of age) are defined as follows:

(a) **CHILDRENS INSTITUTION.** A facility operated by a person, association, or corporation which accepts for 24-hour care (1) more than 15 children under 18 years of age or (2) a smaller number if the facility is institutional in character.

(b) **PARENT-CHILD INSTITUTION.** A facility operated by a person, corporation or association which provides accommodations to parents and care for their children (1) for more than six children under 18 years of age, or more than four family units including the resident staff with children, or (2) for a smaller number if the facility is institutional in character.

(c) **MATERNITY HOME.** A facility operated by <sup>an</sup> incorporated nonprofit organization which offers residential care and other social services (1) to girls under 18 years of age for period prior to and after confinement and (2) to their babies for varying period of time.

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30019 DAY-CARE FACILITIES FOR CHILDREN. Day-care facilities for children (persons under 18 years of age) are defined as follows:

(a) FAMILY DAY-CARE HOME. A family residence in which nonresidential day care only is provided for either, but not both, of the following:

(1) not more than 5 children, including the family day-care mother's own children under age 16, when the age range of the day care children is infancy through 6,

(2) not more than 6 children including the family day-care mother's own children under age 16, when the age range of the day care children is three through eighteen.

(b) SPECIAL DAY-CARE HOME FOR CHILDREN. A family residence in which day care only is provided for 7 - 10 children including the day-care mother's own children under age 16 when the age range of the day care children is aged three through eighteen

Exception: An exception to these age groupings is allowed when siblings are placed in the same home. However, the total number of children in the home shall not exceed the number specified in Section 30019(a) and (b).

(c) DAY NURSERY. A facility operated by a person, corporation, or association in which nonresidential day care only is provided for (1) more than 10 children under 18 years of age or (2) a smaller number if the facility is institutional in character.

30023 HOMES WITH JUVENILE COURT COMMITMENTS UNDER WELFARE AND INSTITUTIONS CODE SECTION 727a. Homes in which wards of the juvenile court have been specifically placed by the court. Such homes are exempt from licensure.

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(Pursuant to Government Code Section 11380.1)

30025 ACCREDITED LICENSING AGENCY. A county or city agency approved by the State Department of Social Welfare to license facilities pursuant to Welfare and Institutions Code Sections 16004 and 16202.

30027 CHILD PLACING AGENCY. A public or private agency licensed by the State Department of Social Welfare to engage in the finding of homes for children under 16 years of age, or to place any such child in any home or other place either for temporary or permanent care or for adoption.

30029 COUNTY ADOPTION AGENCY. A public agency authorized to accept relinquishments for adoption to find homes for children under 16 years of age and to place children in homes for adoption, and when specifically authorized, to investigate and report on petitions for adoptions filed in the Superior Court of that county.

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**CHAPTER 2.**

**LICENSING AGENCIES**

**Article 1. Accreditation**

**30131 DELEGATION TO LOCAL AGENCIES.** Authority to license facilities for fifteen (15) or fewer persons is delegated to local agencies in accordance with the provisions of this chapter.

**30133 PROCEDURE AND AGREEMENT OF ACCREDITATION FOR FACILITIES FOR AND PERSONS AGE 65 OR OLDER.**  
**CHILDREN UNDER AGE 16.** The county or city must enter into a contract with SDSW and designate the licensing agency. Such contract shall be signed by the Director of SDSW and the Chairman of the Board of Supervisors or City Council.

**30135 PROCEDURE AND AGREEMENT OF ACCREDITATION - FACILITIES SUBJECT TO LICENSE AFTER MARCH 4, 1972.** Pursuant to Welfare and Institutions Code Section 16202 the Department of Social Welfare (department) hereby delegates the authority to inspect, make licensing decisions, issue licenses, consult with licensees and applicants for licenses, require compliance with statutory law, rules and regulations and minimum standards, and make recommendations to the department on revocation of licenses for those facilities providing care for fifteen (15) or fewer persons aged sixteen (16) to sixty-five (65) pursuant to Welfare and Institutions Code Section 16200 to the designated licensing agency in each county or city subject to the acceptance of this delegation of authority by formal Resolution filed with the department in Sacramento. A formal Resolution to be effective as such acceptance under this section shall contain the following provisions:

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30135 PROCEDURE AND AGREEMENT OF ACCREDITATION FACILITIES SUBJECT TO  
LICENSE AFTER MARCH 4, 1972 (Continued).

1. Acceptance of the specific authority delegated as set forth in this section.
2. Specification by name of the county or city agency which will act as the licensing agency and agreement that it be subject to the duly adopted rules and regulations of the department.
3. Agreement that such licensing agency shall conform to the standards for accreditation as set forth in this chapter.
4. Agreement that the acceptance of the delegation of authority shall not be rescinded except upon ninety (90) days prior written notice to the department.

The department may, upon thirty (30) days written notice to any county or city operating a licensing agency pursuant to this section withdraw the delegation of authority provided herein and terminate the accreditation of any such agency.

30137 PROVISIONAL ACCEPTANCE OF DELEGATION OF AUTHORITY. Actual performance of the responsibilities set forth in Sections 30141 through 30191 by the county or city agency constitutes acceptance of the delegation of authority set forth above until such time as acceptance is either affirmed or denied by formal resolution.

30139 ACCREDITED LICENSING AGENCY CONTRACTS. Accredited licensing agency contracts established pursuant to Section 30133 shall in no way be affected by action taken pursuant/<sup>to</sup>Section 30135.

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(Pursuant to Government Code Section 11380.1)

30141 STANDARDS FOR ACCREDITATION. In accepting accreditation, a licensing agency agrees to assume the following responsibilities:

1. To employ staff sufficient in number and in competence to perform the duties required by this chapter.

2. To provide <sup>qualified supervision and in-service training</sup> for staff assigned to the licensing program

3. To establish local procedures which insure that:

a. The licensing process conforms with the requirements set forth in this Chapter.

b. Licenses are not issued to facilities which do not meet the requirements.

c. Interim supervision of licensed facilities provides reasonable assurance of continuing conformity with standards and with terms of current licenses.

d. Care not in conformity with standards is terminated in a prompt and consistent manner.

e. Facility records, statistical records and controls are established and maintained in accordance with instructions issued by the State Department of Social Welfare.

4. To establish and maintain a central registry that includes all facilities licensed by the agency.

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FOR FILING ADMINISTRATIVE REGULATIONS  
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30141 STANDARDS FOR ACCREDITATION. (Continued)

5. To provide an information and referral service regarding facilities  
licensed by the agency

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Article 2. Duties of

Licensing Agencies

30143 DETERMINATION OF LICENSING JURISDICTION. Contacts with providers or potential providers of care to children or adults shall be made regarding the need for licensure, including a prompt determination of whether such care is subject to license by SDSW or the licensing agency. Utilization of records pertaining to public assistance payments to Group I or Group II out-of-home care recipients may be used to identify providers of care to adult recipients.

If such care is not within the licensing jurisdiction of the licensing agency a referral shall be made to the agency with jurisdiction to license (SDSW, SDPH, SDMH).

30145 APPLICATION FOR LICENSE. Any person shall have the right to file an application for license. Application shall be made on the form and in the manner specified by the State Department of Social Welfare.

subject to license who are  
Persons/ currently caring for children or adults and intending to  
continue such care shall file an application.

A new application shall be filed whenever there is any change in type of care, change in location or change in the persons named as licensee, and

when a renewal application has not  
been filed within the legal time limit.

30147 WITHDRAWAL OF APPLICATION. An applicant shall be permitted to withdraw the application at any time prior to the issuance of a license.

00013

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(Pursuant to Government Code Section 11380.1)

**30149 APPLICATION FEE.** The following annual fee shall accompany the initial and renewal application for a license to operate a facility for persons age 16 and above, other than a boarding home for six or fewer children age 16 and 17:

<u>Capacity Requested</u>	<u>Application Fee</u>
1 - 15	\$ 35
16 - 30	50
31 - 50	75
51 or more	100

**30151 LICENSING STUDY.** The licensing agency shall complete a study of each application received which shall include:

1. a determination whether all requirements for licensing including fire safety, are met;
2. an on site inspection of the facility and grounds;
3. a personal interview including a review of applicable standards with the
  - a. owner;
  - b. administrator or operator of the facility.

**30153 CRIMINAL RECORD CLEARANCE - INITIAL LICENSING STUDY - ALL FACILITIES FOR CHILDREN.** Each prospective licensee for a facility for children under age 18 shall be fingerprinted. Criminal record clearance shall be obtained from the State Bureau of Criminal Identification and Investigation by the use of Form CII-7.

00014

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**30153 CRIMINAL RECORD CLEARANCE - INITIAL LICENSING STUDY - ALL  
FACILITIES FOR CHILDREN (Continued).**

If it is not possible to ascertain the criminal record or absence thereof by the fingerprint method, then resort to name check as a secondary, alternative method shall be made.

If a person's fingerprints are taken twice and both sets are not sufficiently clear to permit CII to effect clearance, use of the name check as a secondary, alternative method shall meet <sup>this requirement</sup> / if the following conditions are met:

a. There is a completed, signed application on file which includes a statement that the applicant has or does not have a criminal record.

b. An entry is made in the facility's record explaining efforts to effect clearance by the fingerprint method and reason(s) for resorting to the name check.

Name check method shall also be used in unusual circumstances, e.g., if the person is physically unable to have fingerprints taken and is, in all other respects, qualified for a license.

Fingerprinting for purposes of CII clearances may also be required for prospective licensees of residential care homes for adults within the discretion of the licensing agency.

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(Pursuant to Government Code Section 11380.1)

30155 DISPOSITION OF CRIMINAL RECORD REPORTS - ALL FACILITIES FOR CHILDREN. The criminal record report shall be reviewed promptly on receipt. Upon such review the licensing agency shall:

1. Continue processing the application if there is no criminal record, or if the only record is of minor traffic violations in which a fine of \$50 or less was imposed.
2. Deny the application for a license if the report shows that either the applicant or <sup>spouse</sup> / has been convicted of a felony involving intentional bodily harm or any sex offense whether felony or misdemeanor.
3. Deny the application if either applicant or spouse has wilfully, and in a material way, withheld or falsified information regarding his or her criminal record.
4. In all other cases determine whether the issuance of a license is in the <sup>best interest of persons to receive care.</sup> / Some of the factors to be considered are whether applicant or spouse has / been rehabilitated, or the conviction modified, or a pardon issued.
5. Obtain conclusive information in all matters on which the report is inconclusive about whether the applicant or spouse has been convicted of a crime including modification, setting aside of the conviction, or pardon.
6. Promptly notify the applicant if denial is indicated. If there is a <sup>facility</sup> child in the / promptly notify the child placing agency responsible, or the child's parents, or guardian.

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**FACILITIES**

**30157 / HANDLING MONEY OF ADULTS.** The licensing agency shall determine whether the bonding requirements of Welfare and Institutions Code Sections 16213 and 16213.5 apply to and if so, are met by any applicant or licensee of a residential care home for adults.

**30159 ISSUANCE OF LICENSE.** Immediately upon determination that requirements for license are met, the licensing agency shall complete and transmit to the applicant the license form specified by the State Department of Social Welfare.

The license shall bear:

1. The number assigned to the facility by the licensing agency.
2. The name and address of the licensee, the facility and the person or persons responsible for the care to be provided.
3. The effective dates and terms of the license.
4. Designation of the type of facility based upon its primary purpose.

The original and one copy of the license shall be signed by the Director of the licensing agency or his designated representative. The copy of the license shall be filed in the facility record/and the original license shall be maintained by the licensing agency transmitted to the licensee with any special instructions, forms, or other pertinent material.

00017

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30161 EFFECTIVE DATE.** The effective date of a license shall be the date actually issued or a subsequent date.

No license shall be issued or bear an effective date prior to completion of the licensing study. A license shall not be predated to the expiration date of a prior license when a new application was required because of a change of location or a change in the person(s) responsible for care.

The license shall bear a date of expiration 12 months after the date of issuance and it is not transferable.

**30163 TERMS OF THE LICENSE.**

**1. General**

Operation of a facility beyond the terms and limitations specified on the license is prohibited.

The license shall specify the maximum number of children or adults to receive care at any one time.

Any limitations shall be written or indicated on the face of the license. Details of such limitations shall be specified in the transmittal letter, if not written on the license.

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00018

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## 30163 TERMS OF THE LICENSE (Continued).

## 2. Residential Care Homes for Adults

- a. The license shall specify whether care of adults age 65 and over is authorized.
- b. Unless the care of nonambulatory adults has been approved by fire safety officials, each license shall state "Ambulatory Adult only". When such approval has been given, the license shall specify the number of nonambulatory adults included in the licensed capacity and any limitations on the rooms which they may occupy.

3. Boarding Homes/<sup>and Group Care Facilities</sup>for Children

The license issued to a facility for children shall specify:

- a. the age range and sex of the foster children.
- b. The number, if any, of foster children under two years of age who can be accepted for care. Unless the requirements of Item 1 in Section <sup>31127</sup> can be met, this number shall not exceed the following:
  - (1) None, if the foster family has two or more children under two years of age.
  - (2) One, if the foster family has one child under two.
  - (3) Two, if there will be other children over two years of age in the home.

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WITH THE SECRETARY OF STATE

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30163 TERMS OF THE LICENSE (Continued).

Care of more than two children under two years of age shall be authorized only when there will be no other children in the <sup>facility</sup> / and an exception is warranted by some unusual factor (e.g., care required by three brothers and sisters under two years of age; care will be given by two adults, etc.).

c. Limitation of the care of children of a specified faith when the licensee has claimed exemption from the requirements relating to intradermal tuberculin tests and chest X-rays on the basis of religious faith. (See Welfare and Institutions Code Section 16017.)

d. Both the number of children permitted for year-round care and the number of additional children permitted for summer care. If the summer capacity has not been determined at the time license is issued for year-round care, a new license shall be issued when the summer capacity is determined.

4. Day Care Facilities for Children

The license issued to a day care facility for children shall specify:

a. The age range of the day care children.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

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30163 TERMS OF THE LICENSE (Continued).

b. Limitation of the care of children of a specified faith when the licensee has claimed exemption from the requirements relating to intradermal tuberculin tests and chest X-rays on the basis of religious faith. (See Welfare and Institutions Code Section 16017.)

c. Both the number of children permitted for year-round care and the number of additional children permitted for summer care. If the summer capacity has not been determined at the time license is issued for year-round care, a new license shall be issued when the summer capacity is determined.

30165 DENIAL OF APPLICATION. When the requirements for license are not met, the licensing agency shall notify the applicant within 60 days of filing of application and offer such applicant an opportunity to withdraw the application. If persons requiring care are living in the facility, a plan and date for the discontinuance of care shall be agreed upon. Such arrangements shall be confirmed in writing by the licensing agency.

If the applicant elects not to withdraw the application, a letter shall be prepared confirming the denial of the application, the decision of the applicant and setting forth the licensing agency's reasons for the denial. The letter shall also advise the applicant that he or she has the right to appeal to SDSW for an administrative review within 30 days.

00021

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

## 30167 SUPERVISION OF LICENSED HOMES.

1. Visits to inspect or observe the operation of the facility shall be made by the licensing representative as required, beyond the following minimums:

a. An unannounced visit shall be made to every newly licensed facility within four (4) calendar months after issuance of the license.

b. An unannounced visit shall be made <sup>after the first year under licensure</sup> to each licensed children's facility, at least once every twelve (12) months, and to each residential care home for adults at least twice every twelve (12) months.

2. Investigation of a facility shall be made immediately upon receipt of a complaint that minimum life safety requirements are not being met, or that persons receiving care are being abused, exploited or otherwise endangered. A plan of corrective action shall be established immediately if the complaint is substantiated. The licensee shall be informed in writing of the plan requirements and a date set for achieving conformity.

30169 CARE OF PERSONS NOT PERMITTED UNDER TERMS OF LICENSE. Any indication that licensing jurisdiction may be affected by a change in the physical or mental characteristics of the children or adults accepted for care, the services provided or the future plans of the licensee, shall be promptly explored.

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00022

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30169 CARE OF PERSONS NOT PERMITTED UNDER TERMS OF LICENSE (Continued).**

When the licensee did not intend to provide care outside the jurisdiction of the licensing agency, the licensee shall be requested to discharge any children or adults whose care cannot be permitted under the current license.

When the licensee wishes to continue the care of individuals whose physical or mental condition appears to remove the home from the jurisdiction of the licensing agency, or plans to provide care clearly within the jurisdiction of another agency, all procedures required for a new applicant shall be followed.

A current license shall remain in effect pending notification that jurisdiction has been accepted by another agency. If a license is issued by another agency the licensing agency shall include in the required letter of notification to the licensee a request for return of the license and shall report the license cancelled.

**30171 OPERATION WITHOUT A LICENSE OR BELOW MINIMUM STANDARDS.** Immediately upon determination that an unlicensed facility is providing care that is prohibited by Welfare and Institutions Code, Section 16000 or 16200, and after due notice and opportunity to apply for license or to comply with the standards has been given, the following actions shall be taken:

1. The licensing agency shall determine and set forth the facts of such operation in a written statement. The statement shall include the names, addresses and phone numbers of all witnesses, including the licensing agency's representative(s).

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00023

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30171 OPERATION WITHOUT A LICENSE OR BELOW MINIMUM STANDARDS (Continued).**

2. Simultaneous referrals shall be made (a) to the county's district attorney, with a request for prosecution, and (b) to the State Department of Social Welfare.

The referrals shall include a letter of explanation and a copy of pertinent material in the licensing agency's records, including the statements of witnesses and licensing agency representatives. The referral to the State Department of Social Welfare shall contain a copy of the referral letter to the county district attorney.

**30173 RENEWAL OF LICENSE.**

1. Notice regarding submission of renewal application shall be sent to each licensee at least ninety (90) days prior to the expiration of the license.

2. If the renewal application, accompanied by the applicable application fee, is not filed with the licensing agency by ten (10) calendar days prior to expiration of the license, the license is automatically cancelled (Welfare and Institutions Code, Sections 16008 and 16204).

3. Regardless of whether a renewal application is received, the licensing agency shall make a determination sufficient to establish by not less than thirty (30) calendar days prior to expiration of the license whether the facility meets the minimum standards for license.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30173 RENEWAL OF LICENSE (Continued).**

4. The renewal study shall include at least one inspection visit to the facility. (See requirements for Licensing Study Section 30151.)

a. If the facility meets the standards, a renewal license shall be issued prior to the expiration date of the current license.

b. If the facility does not meet the standards, the licensee shall be given an opportunity to withdraw the renewal application. If the licensee elects not to withdraw the renewal application written notice of nonrenewal shall be delivered at least thirty (30) days prior to the expiration of the license.

c. The notice of nonrenewal shall set forth the licensing agency's reasons for nonrenewal and advise the licensee that he has the right to appeal with SDSW in writing within 30 days of notice of such nonrenewal.

The filing of an appeal under this section suspends the licensing agency's action pending the outcome of the appeal. Appeals will be conducted in accordance with Chapter 5, Part 1, Division 3, Title 2, of the Government Code.

d. A residential care home license shall be automatically renewed when 30 day notice of nonrenewal is not given. Action <sup>thereafter</sup> to change the terms of such a renewed license or <sup>to send</sup> a recommendation of revocation to SDSW may be made at the discretion of the licensing agency.

**30175 EXPIRATION WITHOUT REAPPLICATION.** If application for a renewal license is not received prior to expiration of the previous license, the licensing agency's responsibility shall not cease until it establishes that no children or adults requiring care are in the facility.

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00025

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30175 EXPIRATION WITHOUT REAPPLICATION (Continued).**

If children or adults requiring care are in the facility, the provisions of the law relating to operation without a license shall be called to the attention of the former licensee and opportunity given to file an application. If an application is not filed or care discontinued, the situation shall be referred to the district attorney for action. (See Section 30171.)

If a former licensee wishes to file an application, / <sup>such licensee</sup> shall be advised of the need to file a new application and provided with the appropriate form.

**30177 CHANGES IN LICENSING STANDARDS.** Whenever there are revisions of the licensing standards, the agency shall provide a copy of such changes to each licensee required to meet them as soon as administratively possible.

**30179 VOLUNTARY DISCONTINUANCE OF LICENSE - TERMINATION OF LICENSE.** If a licensee decides to discontinue the care of children or adults, the licensing agency shall request that the license be returned.

**30181 CHANGE OF LOCATION - TERMINATION OF LICENSE.** If the licensee moves to another address, / <sup>such licensee</sup> shall be notified / <sup>in writing</sup> that the license is cancelled, <sup>be</sup> / requested to return the current license and / <sup>be</sup> advised that a new application is required if children or adults are to be cared for at the new address. If the present whereabouts of the licensee are unknown, this / <sup>notification</sup> shall be sent to the / <sup>licensee's</sup> last known address.

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00026

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30183 EMERGENCY CONDITIONS - CONTINUATION OF LICENSE.** The licensing agency shall consent to a change of location and continuation of the existing license of any facility for a reasonable period of time when the change is required because of the destruction of the premises or similar emergency conditions, so long as the new location or place of performance substantially conforms to building, fire and life safety standards.

**30185 CHANGE OF LICENSEE - TERMINATION OF LICENSE.** If the licensee sells, leases or rents the facility to another party, such/<sup>licensee</sup> shall be notified that the license is cancelled and requested to return the license. If the other party plans to use the facility for care of children or adults/<sup>such party</sup> shall also be notified of the necessity of filing an application for license.

Upon receipt of notification of a plan to sell a building in which residential care of adults has been provided, the licensing agency shall notify the licensee that the license will be cancelled by transfer of ownership of the property, and shall request further notification of consummation of the sale.

Upon receipt of notification of the sale or upon learning of a transfer of ownership or lease to another party, the licensing agency shall notify the potential <sup>new</sup> licensee of the need to apply for a license.

**30187 CHANGES IN A LICENSE.**

1. A request for a change in an unexpired license by a licensee shall be made through submission of an application for license, accompanied by the unexpired license and the amount of the applicable application fee. The licensing study shall be updated and a decision made in the manner specified for a new application .

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**30187, CHANGES IN A LICENSE (Continued).**

2. When the licensing agency determines need to restrict the terms of an unexpired license, it shall:

a. Advise the licensee orally and in writing regarding the reasons for the restriction.

b. Provide the licensee an opportunity (1) to correct the situation or (2) to return the unexpired license with either an application for a modified license or an agreement to terminate care within not more than thirty (30) days.

c. Advise the licensee that he has the right to file an appeal with the State Department of Social Welfare in writing within not more than thirty (30) days after delivery of notice of the action proposed by the licensing agency.

The filing of an appeal under this section suspends the licensing agency's action pending the outcome of the appeal. Appeals will be conducted in accordance with Chapter 5, Part 1, Division 3, Title 2, of the Government Code.

3. A change in an unexpired license shall include any major building alterations or new construction at the facility.

a. When a licensee reports a plan for the construction of a room, wing, or building, or the major alteration of a building, the plans shall be reviewed to determine whether the proposed additions or alterations will conform with regulations.

CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

30187 CHANGES IN A LICENSE (Continued).

Licensees planning to expand capacity beyond the number of persons for which the agency is accredited to license shall be referred to the State Department of Social Welfare. Other licensees whose proposed plan of construction will require a new fire safety clearance shall be advised of this fact, and of the need to discuss their plans with an appropriate fire safety official before construction is started.

30189 REVOCATION OF LICENSE. Cause for the revocation of license exists when a facility fails to meet licensing standards during the effective period of the license.

If the licensing agency determines that there is cause to revoke a license, it shall immediately notify the SDSW in writing. Such notification shall include (1) the name and address of the licensee, (2) <sup>the</sup> type of facility and license number, (3) the cause for revocation, (4) <sup>the</sup> substantiation of the cause for revocation, (5) the names and addresses of witnesses able to testify as to each violation and a summary of their expected testimony, (6) the licensing history of the facility, (7) a summary of the agency effort to correct the situation and any other pertinent information.

The licensee shall be advised that revocation of the license has been recommended by the licensing agency to SDSW, and that <sup>the licensee</sup> / has the right to file an appeal with the State Department of Social Welfare in writing within not more than thirty (30) days after delivery of notice of the action proposed by the licensing agency.

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00029

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30189 REVOCATION OF LICENSE (Continued).**

The filing of an appeal under this section suspends the licensing agency's action pending the outcome of the appeal. Appeals will be conducted in accordance with Chapter 5, Part 1, Division 3, Title 2, of the Government Code.

Following revocation of license by SDSW, the agency shall determine that the facility is not caring for children or adults.

If the facility continues to operate after revocation of license, the licensing agency shall refer the matter in writing to the district attorney and to SDSW in the manner set forth for referral of an unlicensed facility. (See Section 30171.)

**30191 CONFIDENTIAL NATURE OF RECORDS.** Records and information pertaining to licensed facilities shall be confidential.

Information that an application has been filed, that license has been granted or denied, and the terms of the license is public information and shall be provided on request.

Full information shall be given in actions brought by law enforcement officers dealing with the enforcement or prosecution of the Welfare and Institutions Code Sections 16000 or 16200.

In the subpoena of records and witnesses, the attention of the court shall be called to the confidential nature of records and released only upon direct order of the court.

Effective

00030

CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

30191 CONFIDENTIAL NATURE OF RECORDS (Continued).

Information of an evaluative nature shall be released upon request to a public or private social welfare or health agency which fulfills the following conditions:

1. The agency, as part of its usual duties, makes social investigations for the purpose of rendering social service.
2. The agency maintains adequate standards for the protection of confidential information.
3. The agency will use the information only for the purpose for which it is made available, such purpose to be reasonably related to the purpose and functions of the inquiring agency.

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00031

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

CHAPTER 3. Adoptions and Child Placing Agencies

SUBCHAPTER 1. ADOPTION AGENCIES LICENSING APPLICATION

Article 1. Licensing

**30501. AGENCY ELIGIBILITY FOR LICENSE.** To be eligible for license, an adoption agency must conform to all applicable rules and regulations of the SDSW.

An agency will be considered for license only if there is no adoption placement service available in the community, or if the services provided by other adoption agencies are not sufficient to serve the parents applying for it or the children who are in need of it.

The agency must be able to provide, or there must be resources available in the community to provide, for financial assistance including medical and hospital expenses, for mothers who need it; for support of children accepted for study; for medical and psychiatric services for children as needed; and an adequate number of foster homes for children under study or awaiting adoption placement.

The agency must be coordinated with other community welfare services.

**A. County Adoption Agencies**

The agency must be designated by the county board of supervisors as the single public agency in the county through which adoption services will be offered.

When a county is planning to make application to provide adoption services, the county will forward a letter of intent or resolution authorizing the county to apply signed by the Chairman of the Board of Supervisors.

For purposes of inclusion in the state budget the letter of intent or resolution shall be filed with the SDSW at least 18 months prior to the date that the agency plans to begin operations.

**B. Private Adoption Agencies**

The agency must be organized and operated on a nonprofit philanthropic basis

**30503. LICENSING PROCEDURE—APPLICATION FORMS.** Application for a license to conduct an adoption agency must be filed in duplicate with the SDSW on forms prescribed by the department.

**30505. APPLICATION (New and Renewal).** An application shall be in the legal name of the agency, stating the approved geographic area to be served and the adoption services for which the license is requested.

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00032

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**FILING ADMINISTRATIVE REGULATIONS**  
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**30505. APPLICATION (New and Renewal). (Continued).**

**A. Public Agencies.** The application must be signed by the Chairman of the Board of Supervisors. A copy of the board's resolution authorizing the chairman to sign the application and to enter into agreements with SDSW shall be attached. In authorizing the application, the board must show its intent to operate the adoption program in full conformity with the laws (W&I Code and Civil Code) and the SDSW regulations and policy.

The county may apply to serve children, parents and applicants in an unlicensed county with prior approval from SDSW and a written agreement between the counties. A copy of agreement shall be approved and filed with SDSW. (Exception: The occasional adoption service provided in another county.)

**B. Private Agencies.** Application must be signed by the presiding officer of the board of directors and the executive officer of the agency, if selected, or a second officer of the board of directors if the executive officer has not yet been appointed. A copy of the board authorization to its representative to apply for such a license must accompany the application.

**C. Public and Private Agencies.** The application for renewal of the adoption license shall be filed with the SDSW at least 10 days prior to the expiration date of the current license. When applicable, written agreements between counties and agencies shall be updated at time of renewal.

**D. Application.** A new application must be accompanied by full information on the following. A renewal application must update and show changes.

1. A written plan of operation in duplicate, covering the following:

(a) Statement of program goals and description of services.

(b) Administrative organization — narrative and chart of total agency.

(c) Personnel in the adoption program; state the number, classification, qualifications and duties.

Volunteers and Aides, stating the number, qualifications and duties.

(d) Physical facilities and office arrangement—diagrams.

(e) Forms and clerical system—samples.

2. Statement of facts on which need for service was determined and plans for coordination with other community welfare services.

3. Geographic area to be served, plan of operations, agreements between the counties and services to be provided.

4. The private agency shall include: (a) a copy of its constitution and by-laws and, if it is incorporated, a copy of the Articles of Incorporation (b) list of membership of governing board and any advisory committee showing length of

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30505. APPLICATION (New and Renewal). (Continued).**

term and interest or qualifications on which selection was based and indicating which persons serve as officers and in which position; (c) the assistance provided to the natural mother in obtaining maternity care; and (d) copy of the proposed budget and plan for financing the agency.

**5. The public agency shall include:**

- (a) The maternity care plan;
- (b) the agency's provisions for services and assistance to mothers who are not eligible for public services and funds; (c) the specific plan for coordination and utilization of public social services (services to strengthen family life, income maintenance, Medi-Cal, licensing, foster care, etc.). The agency's responsibility for providing these services are in the SDSW Manual of Policies and Procedures. (d) A program budget. The agency's plan for services (to natural parents, children and adopting families) established in the statement of goals and services (D, 1, a) is the basis for estimating staff needed. Staff positions are based on the established yardstick expressed in the man-months required to perform the services.

Supportive and supervisory positions are based on ratios developed by SDSW. Positions outside the yardstick must first be requested, justified and authorized by SDSW.

- (e) The number of full fees, the number of reductions, and the number of waivers.

- (f) The estimate of funds needed for salaries and operating costs.

**30507. TERMS OF LICENSE.** Adoption services which a licensee may render are limited to those specified by the license.

**30509. DELEGATION OF RESPONSIBILITY FOR INDEPENDENT ADOPTIONS.** If the SDSW delegates responsibility to a public agency for the independent program, it must be shown on the license.

**30511. AMENDED LICENSE.** Proposed major changes in program or organization shall be submitted to the SDSW for review and possible issuance of amended license.

**30513. RENEWAL OF LICENSE.** An agency which has filed application for the renewal of its license within the time specified by law shall be deemed to be operating under a license of the SDSW until such time as the application has been acted upon.

**30515. TERMINATION OF LICENSE.** License may be terminated by the SDSW for failure of the agency to meet the standards and regulations as defined in this chapter.

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30517. **MATERNITY CARE PLAN.** The maternity care program authorized under the Welfare and Institutions Code Section 16130 shall be based upon a written plan submitted by the county adoption agency. The program shall be used for mothers who do not qualify for Medi-Cal or other medical plans and whose personal resources are not adequate to provide for their own care.

30519. **COUNTY ADOPTION AGENCY AGREEMENTS—MATERNITY CARE PROGRAM.** If a county adoption agency makes a plan for maternity care for the mother, it shall enter into an agreement with a licensed physician and surgeon, a licensed private hospital, or a hospital operated by the Regents of the University of California or a combination of these for the care of the mother who is financially unable to provide for her own care.

30521. **TO WHOM PAYMENT IS MADE.** Payment for the mother's maternity care shall be made directly to the physician, private hospital, hospital operated by the Regents of the University of California, clinic, or medical facility. (See Fiscal Manual Section F-940.30)

30523. **PERIOD FOR WHICH PAYMENT CAN BE MADE.** The county adoption agency shall pay for maternity care in the amount agreed upon by the agency and the physician or hospital during the time the mother is considering an adoption plan.

Payment for maternity care for mothers who request service and assistance with maternity care before the child's birth shall be limited to charges incurred from the time of application and approval for maternity care. Exceptions may be made for the mother who, at the time of request for service, did not apply for maternity care but subsequently is unable to meet the cost of maternity care and applies for maternity care assistance within 30 days after birth of the child.

Payment for mothers who request service and assistance with maternity care within 30 days after birth of the child shall be limited to mothers who (1) did not have prenatal care or (2) requested service so late in pregnancy that application and approval for maternity care could not be made before delivery, or (3) did not decide to consider relinquishment for adoption as a plan until after the child's birth. In any event, the decision to approve payment of maternity care must be based on a bona fide request for adoption services and not primarily related to the agency's paying maternity expenses of the mother.

The agency shall notify the doctor and hospital if the adoption plan is terminated. No payment shall be made for services rendered after termination of the adoption plan.



**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

30525. **REPAYMENT OF MATERNITY CARE.** Even though a decision is reached not to relinquish a child to the agency, the mother, the husband, the child's father, if appropriate shall not be held liable for repayment of maternity care. However, if the agency is reimbursed for all or part of the maternity assistance, then the reimbursement shall be deposited and reported as administrative abatement to the adoption program.

**Article 2. Organization and Administration of an Adoption Agency**

30527. **ADMINISTRATION—PUBLIC AND PRIVATE AGENCIES.**

**A. Public and Private Adoption Agencies shall:**

1. Assure that each adoption worker has an effective working knowledge of the California Administrative Code, Title 22, Chapter 3, and other regulatory and guide material needed in performing their function. Copies shall be made available to all staff.

2. Be responsible for the proper use of adoption staff through the development of a staffing plan based on all classifications used and showing the functions of each classification. The plan shall show the way aides and volunteers are to be used and to whom they are responsible.

In public agencies the use of aides and volunteers shall be a part of the department's overall program.

**B. Public Agencies—Supportive Services of the Agency.** Public agencies shall coordinate the following programs with the adoption program to provide adequate and necessary services to natural parents, children and adoptive applicants, and such services shall be claimed against the appropriate program.

1. Income Maintenance and General Relief.

2. Recruitment, study and licensing of foster homes.

3. Supervision of children in foster care when an adoptive home is not readily available, or when the child is not now ready for adoption or when a child cannot be placed for adoption.

4. Medi-Cal eligibility and service.

a. The name aka or alias of the child used for purposes of confidentiality in AFDC and/or adoption records shall also be used for Medi-Cal purposes while the child is in foster care.

5. Supervision of children in free foster home care, long-term foster home agreements or children who have legal guardians.

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30527. ADMINISTRATION--PUBLIC AND PRIVATE AGENCIES. (Continued).

6. Post-adoption services, other than the services adoption is responsible for in providing further specific information needed by the adoptive family.

7. Staff development and medical consultation for staff.

A county in which separation of adoption functions from other Public Social Services (AFDC and CWS Programs) was legally authorized as of January 1, 1968, may request that Item 7, Staff Development, and Medical consultation for staff, be considered for inclusion in the adoption budget. Request for inclusion of these items must be in writing and shall include the agency's plan for providing such training and medical consultation and the estimated costs. These items shall be subject to the regulations and standards which apply to county welfare departments. The county shall participate in the cost of these services on the same percentage basis as when these functions are provided through the county welfare department.

**C. Public Agency—Adoption Service.** Public agencies shall assure that adoption time reports and claims accurately reflect staff and administration used for providing adoption services.

The adoption services shall be focused on finding homes for children for whom adoption appears to be the best plan, who are now ready for adoption, and for whom the agency is free to select adoptive homes. In accomplishing this, services are given to the natural parents and children and to adoptive applicants.

The adoption services to be provided and claimed are:

1. Services to natural parents when relinquishment of the child is being considered.
2. The acceptance of relinquishments.
3. Services for children in preadoptive care for a reasonable period of time. A reasonable period of time ceases when:
  - a. The child is ready for adoption but a suitable adoptive home is not available locally or through ARRC, the statewide adoption exchange.
  - b. The child needs foster care for an indefinite or undeterminable period of time because of legal complications or delays, age, medical or psychological problems that preclude the child being ready for adoption.
  - c. Adoption cannot be the plan for the child because of severe medical, physical, or psychological handicaps which have been diagnosed by an appropriate specialist.

The adoption unit remains responsible for keeping an active file for these children and for evaluations of the progress reports received from placement staff. Evaluations include determining whether a child is ready for adoption, and whether a home is now available.

The adoption unit remains responsible for recruiting homes for these children and for considering these children

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**30527. ADMINISTRATION--PUBLIC AND PRIVATE AGEN-  
CIES. (Continued).**

in connection with applications received, homes approved or homes becoming available through ARRC.

4. The recruitment, selection and study of adoptive families.

5. Selection, placement and supervision of children in adoptive homes.

6. Preparing and completing necessary documents, report and records for completion of the adoption.

7. Interviews with adoptive family after adoption is final when specific information is needed regarding the child or limited services are necessary. Continued services shall be provided by referral to appropriate services in the county or community.

8. Interviews with the natural parent following relinquishment to provide limited services. Continued services shall be provided by referral to appropriate services in the county or community.

**30529. CONSTITUTION AND BY-LAWS--PRIVATE AGEN-  
CIES.** The agency shall have a constitution and by-laws setting forth its purpose, making provision for control by a responsible governing body.

The constitution and by-laws must contain the following information:

1. The name of the organization.
2. The purpose of the organization.
3. The relationship of the adoption service to the general membership, larger organization and/or auxiliaries, if any.
4. The location of the administrative authority for operation of the adoption program.
5. The powers and duties of the governing board.
6. The size, composition and method of selection of board and the terms of office established for its members.
7. The organization of the board, including the officers, the method of their selection, their term of office, and their duties.
8. The plan for regular meetings of the board and the number of members necessary for a quorum.
9. The methods of financing the agency or service.
10. The methods by which changes in constitution and by-laws can be effected.

**30531. GOVERNING BOARD MEMBERSHIP -- PRIVATE  
AGENCIES.** Board members shall serve without compensation, but may be reimbursed for expenses.

No board member shall profit financially by reason of his membership nor be employed by the agency regularly either full time or part time.

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**30531. GOVERNING BOARD MEMBERSHIP -- PRIVATE AGENCIES. (Continued)**

Membership shall be distributed so that no single profession shall have control.

**30533. BOARD METHOD OF SELECTION—PRIVATE AGENCIES.** Members shall be elected by the supporting membership or by a representative body for a definite term of office. Provision shall be made for the replacement of members who become inactive.

**30535. BOARD MEETINGS — PRIVATE AGENCIES.** The board shall keep minutes of all its meetings and shall make them available for review by the SDSW.

**30537. BOARD DUTIES—PRIVATE AGENCIES.** The board shall formally adopt a written statement of its responsibilities to which the members agree.

**30539. BOARD COMMITTEES — PRIVATE AGENCIES.** Provision shall be made for the appointment of standing committees and such temporary or special committees as are needed.

**30541. RELATIONSHIP OF BOARD TO EXECUTIVE AND AND STAFF—PRIVATE AGENCIES.** There shall be division of responsibilities between the board and executive in order that an efficient administration may be provided. The board shall delegate to the executive the responsibility for administration, but the board shall determine the major policies and the general plan of operation based upon its knowledge of agency problems and community needs. The general policy of the board shall be to include the executive at all regular meetings.

**30543. FINANCES—PRIVATE AGENCIES.** The agency shall be soundly financed to insure an adequate standard of service. An agency may solicit funds but this may not be a condition to placement of a child for adoption.

It shall have sufficient funds to provide the services which it offers and to provide continuing care for children relinquished to it who may require prolonged study or treatment before placement, children who may be returned to it prior to completion of the adoption, and relinquished children who cannot be placed for adoption.

The scope and size of the agency's services shall be so planned that adequate standards of service are maintained.

Policies and practices governing receipt and expenditures of money shall be in accord with sound budgeting, disbursement and audit control procedures. Financial records shall be maintained of receipts, disbursements, assets and liabilities.

**30545. FINANCES—PUBLIC AGENCIES.** In order for the state to reimburse the county for the administration of an adoption program, there must be a plan of operation developed by the agency and approved by the SDSW. Reimbursement shall be in accordance with the plan of operation and with the terms of the annual budget approved by the State Department of Social Welfare. Claims for administrative expenditures shall not include expenditures defined as adoption cost of care.

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**30547. FEES FOR ADOPTION SERVICES—PUBLIC AND PRIVATE AGENCIES.** Adoptive families are expected to share the cost of services from the adoption agency to the extent of their ability. The fee shall be explained in terms of the concern of the agency and family and mutual interest in: (a) promoting the health and welfare of children, natural parents and adoptive families; (b) establishing that children are legally free; and (c) maintaining confidentiality for all parties.

**A. Fees.**

1. The fee and the family's ability to pay shall be thoroughly discussed with the family. The family shall be informed that the fee is subject to review at any time during the study period and prior to completion of adoption. The director of the agency is responsible for assuring that staff recognize the concept of and the appropriateness of the family sharing the decisions and costs. Final decisions regarding collection of full fee, reduction, deferment or waiver of the fee shall require approval of agency's administration.

2. A family able to pay shall not be granted a waiver or reduction of the fee, nor shall it be reduced or waived solely on the basis of the placement being a subsequent placement in a home which has previously paid a fee.

3. In deciding whether the fee is to be reduced or waived, the items considered are to include: (a) the gross and net income and the resources and expenses of the family; (b) the individual differences in communities in which the families live or costs which may be greater for some families than others; (c) whether economic hardship results to the family, detrimental to the welfare of the child; whether a temporary problem or one expected to be continuous; (d) are siblings or more than one child being placed in the same home at the same time?

4. The case record shall include:

(a) The fee to be paid by the adoptive family or waiver of fee recorded as part of the narrative with marginal headings for identification.

(b) Information supporting the decision and agreement between the agency and the family, including the amounts and time of payments.

5. The agency's responsibility to complete the adoption and file a favorable court report is not changed by the family's failure to pay the fee or complete the payment plan. If the agency is not able to secure payment, the family is still responsible for paying the fee and the agency is responsible for either collecting or making appropriate adjustments of the fee.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**30547. FEES FOR ADOPTION SERVICES--PUBLIC AND  
PRIVATE AGENCIES. (Continued).**

**B. Collection of Fees.** When fees are not received in accordance with plans stated in the placement agreement, an agency representative shall discuss the matter with the family. When for good reasons changes in the agreement are indicated, such changes shall be made with the concurrence of appropriate social service staff. The case record shall reflect the basis on which the decision is made.

**C. Public Agencies—Fees.** A fee of \$500 shall be charged (Section 225p of the Civil Code). The fee can only be waived or reduced if the agency in good faith and on tenable evidence decides that payment of the fee by the petitioners would be to the detriment of the child. Families who have returned the child to the agency or for whom a favorable report cannot be filed shall have the fee returned.

**D. Private Agencies—Fees.** The maximum fee and fee plan shall be approved in advance by the SDSW.

**E. Cooperative Placements.** The fee shall be paid by the family to the agency which provides the service to the family.

**30549. PERSONNEL POLICIES AND PRACTICES—PUBLIC AND PRIVATE AGENCIES.** Personnel policies and practices which will attract and hold competent, well-qualified staff, and stimulate professional growth, shall be formulated. Personnel policies shall be in writing and shall be available to staff.

**30551. SELECTION AND TENURE OF STAFF—PUBLIC AND PRIVATE AGENCIES.** Employment and tenure of position shall be based solely upon competence.

**30553. NUMBER OF STAFF—PUBLIC AND PRIVATE AGENCIES.** Professional and clerical staff shall be sufficient in number to perform the functions of the agency.

**30555. QUALIFICATIONS—ALL PROFESSIONAL STAFF—PUBLIC AND PRIVATE AGENCIES.** Staff members shall be qualified for their responsibilities by education, training, experience, personality, and health.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30557. THE EXECUTIVE.**

**A. Responsibility—Public and Private Agencies**

The executive is responsible for the operation of the agency and is held accountable for it. He may delegate his authority but not his responsibility.

**B. Qualifications—Private Agencies**

The executive shall have professional training in the field of child welfare or have demonstrated ability and leadership through experience as an executive in the field of child welfare.

When the organization of the agency may necessitate, the executive shall have such other qualifications as are required for the additional duties he may have to assume, such as supervision of casework.

**30559. SUPERVISORS.**

**A. Responsibility**

The supervisor is responsible to the executive or his delegated assistant for the performance of designated staff.

**B. Qualification Requirements**

**1. Public Agencies.** Except as otherwise provided supervisors shall be qualified for their responsibilities by education and experience, the minimum of which shall be either

(a) possession of a master's degree from an accredited graduate school of social work (Those candidates who completed all academic requirements for the degree except the thesis requirement prior to July 1, 1956, will be considered as possessing the equivalent of a master's degree), and

three years of full-time social work employment; or

(b) one year of experience as a Social Service Practitioner II, or two years of experience as a Social Service Practitioner I, or their equivalent, in a California county welfare department.

**2. Private Agencies.** Except as otherwise provided supervisors shall be qualified for their responsibilities by education and experience, the minimum of which shall be:

Possession of a master's degree from an accredited graduate school of social work (Those candidates who successfully completed all academic requirements for the master's degree except the thesis requirement prior to July 1, 1956, will be considered as possessing the equivalent of the master's degree), and either

(a) three years of full-time social work employment in the field of family or child welfare; or

(b) two years of full-time social work employment in a licensed adoption agency.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**30561. SOCIAL WORKERS—PUBLIC AND PRIVATE AGENCIES.**

**A. Responsibility.** Social workers shall provide the services involved in fulfilling the agency's responsibility for providing social services in its adoption program.

**B. Qualification Requirements — Public and Private Agencies.**  
The minimum educational requirement for social worker shall be:

Possession of a master's degree from an accredited graduate school of social work (Those candidates who successfully completed all academic requirements for the master's degree except the thesis requirement prior to July 1, 1956, will be considered as possessing the equivalent of a master's degree).

**30563. IMPLEMENTATION OF QUALIFICATION REQUIREMENTS — SUPERVISORS AND SOCIAL WORKERS — PUBLIC AND PRIVATE AGENCIES.**

**A. Staff Employed after January 1, 1970.** These sections shall apply to supervisors and social workers employed after January 1, 1970.

**B. Supervisors.** Supervisors employed on or after January 1, 1970, must meet the qualification requirements

Supervision of social workers may be provided by a first-level supervisor, or higher, including the agency executive.

**C. Baseline Standard for Progressive Implementation of Qualification Requirements for Social Workers**

**1. Agencies Licensed on and After January 1, 1970.** For agencies initially licensed on or after January 1, 1970, the baseline, or minimum staffing requirement, for progressive implementation of qualification requirements

is that there be employed at least one social worker who meets these qualifications. There shall be no waiver of this requirement as a condition for initial issuance of a license. The baseline standard as a condition for renewal of a license shall be the same as that set forth in Paragraph C, 2, below.

**2. Agencies Licensed Prior to January 1, 1970.** For agencies licensed prior to January 1, 1970, the minimum percentage of social work staff meeting the requirements

shall not be less than 75% of the proportion of fully qualified social work staff to total social work staff on January 1, 1970. Agencies which had no qualified social work staff prior to January 1, 1970, shall have not less than one fully qualified social worker meeting the standard by January 1, 1970.

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**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30563. IMPLEMENTATION OF QUALIFICATION REQUIREMENTS--SUPERVISORS AND SOCIAL WORKERS--PUBLIC AND PRIVATE AGENCIES. (Continued).**

The department will consider requests by agencies for additional time within which to meet this minimum standard, and upon approval of the request a reasonable period of time for this purpose will be granted.

Each agency shall establish and keep available the above-mentioned January 1, 1970, baseline.

**D. Recruitment of New Staff by Progressive Implementation.** The agency shall make every reasonable effort to increase the percentage of fully qualified social workers above its baseline in the recruitment of new staff.

**E. Differential Use of Social Worker Staff.** An agency may request SDSW approval of a plan for differential use of social work staff who do not meet the graduate education requirement or the alternate requirements set forth in paragraph G of this section. If the agency obtains SDSW approval of such plan, both the agency's baseline standard and the progressive implementation requirement, shall be modified as appropriate.

**F. Waiver of Qualification and Progressive Implementation Requirements.** Agencies may request waivers of the graduate education requirement, and the experience requirement in paragraph G of this section if either of the following circumstances exists:

1. The agency is unable to implement progressively the qualification requirement ; or

2. Is unable to maintain its baseline standard; and essential adoption services would otherwise be jeopardized.

Such waiver shall be granted in whole or in part if the agency demonstrates that:

(a) It has made a substantial and consistent effort to recruit and retain an increasing percentage of social workers ; and

(b) A selective certification or hiring plan is in effect, whereby social workers possessing the qualifications shall be employed first.

Those possessing the qualifications set forth in paragraph G of this section may thereafter be otherwise selectively employed.

**G. Alternate Requirements — To be Used if Waiver Granted.** Upon approval of waiver, for public or private agencies, and except as provided in this section, the SDSW shall authorize use of one or more of the optional qualification requirements which appear below, in the order given.

**Option 1**

**(a) Public Agencies**

Graduation from college, and either

(1) one year of experience as a Social Service Worker II, or its equivalent, in a California county welfare department; or

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30563. IMPLEMENTATION OF QUALIFICATION REQUIREMENTS--SUPERVISORS AND SOCIAL WORKERS--PUBLIC AND PRIVATE AGENCIES. (Continued).**

(2) two years of social work experience in a public welfare agency (One year of graduate education which was completed as part of the candidacy for a master's degree in social work may be substituted for one year of the required experience).

**(b) Private Agencies**

Graduation from college, and two years of social work experience in a social service agency (One year of graduate education in social work, or completion of an undergraduate major in social welfare may be substituted for one year of the required experience. Completion of an SDSW approved in-service training course, or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience. In all cases, however, a minimum of one year of experience shall be required under these substitution patterns).

**Option 2**

**(a) Public Agencies**

Graduation from college with a major in social welfare; or

graduation from college with a major other than social welfare, and either

(1) one year of experience in a public or private agency performing duties comparable to a Social Service Worker I (One year of graduate study which was completed as part of the candidacy for a master's degree in social work may be substituted for the required experience); or

(2) one year of experience as a Social Service Worker I, or its equivalent, in a California county welfare department (Completion of an SDSW approved in-service training course or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience).

**(b) Private Agencies**

Successful completion of one year of graduate education in social work; or

graduation from college, and

one year of experience in the field of family or child welfare (Completion of an undergraduate major in social welfare may be substituted for the required experience. Completion of an SDSW approved in-service training course, or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience).

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**30563. IMPLEMENTATION OF QUALIFICATION REQUIREMENTS--SUPERVISORS AND SOCIAL WORKERS--PUBLIC AND PRIVATE AGENCIES. (Continued).**

**Option 3**

**Public and Private Agencies.**

Graduation from college. This option will only be authorized if the agency has approved in-service training and staff development programs for staff recruited at this level.

**Article 3. Agency Offices and Records**

**30565. OFFICE FACILITIES FOR ADOPTION AGENCIES.** The agency shall be housed in offices which are adequately equipped, which provide privacy for interviewing and which are conveniently located for the public.

**30567. RECORDS, REPORTS AND STATISTICS.** Immediate notice shall be given to the State Department of Social Welfare in all cases where the agency is served with a notice of appeal or a petition for return of any kind in an appellate court, or where the agency learns that a notice of appeal has been filed in any guardianship or custody action involving a child who is also the subject of an adoption. All developments on any such case are to be reported promptly.

Current administrative records shall be maintained by the agency in such a form as to provide an index to all cases, including location of children under care, and including all foster homes in use.

Monthly statistical reports shall be submitted as required by the SDSW.

Public agencies shall collect fees and make a report of all collections each month. When the fees collected are deposited in a trust fund or other funds which accrue interest, the interest shall also be reported and shall be considered as a part of the administrative abatement to the adoption program.

Copies of current policies as adopted by the board of the agency shall be submitted to the SDSW.

Such other records shall be maintained and reports submitted as may be required by the SDSW.

**30569. CASE RECORDS--RELINQUISHMENT AND INDEPENDENT ADOPTIONS.**

(a) The agency shall maintain a case record for each family unit or individual served in its adoption placement program.

(b) During the study process the agency shall maintain a complete record on each case. Each case record shall include a face sheet or application form, a typewritten record of the study, medical and other reports, correspondence, applicable legal documents, verifications, evaluations of findings, decisions reached, actions taken, and court reports.

(c) All information in adoption case records shall be confidential.

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FILING ADMINISTRATIVE REGULATIONS  
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**30571. INDEPENDENT ADOPTIONS CASE RECORDS. (a)**

When the court report is filed and the case closed, the record shall be returned to the SDSW, Sacramento, for permanent filing. It shall be the responsibility of the study agency to assure that copies of the material listed below are included in the case record when it is sent to the SDSW for permanent filing; the petition, and notices of subsequent actions; questionnaire; Infant Release Report, if any; psychiatric and psychological reports, if any; references; certified copies of documents; any other reports of significance to the study and report to the court; the study; and the report to the court. Any material that is not legible in its original form shall be identified, and clarified or summarized in the study, and the illegible material shall then be destroyed.

(b) It shall be the responsibility of the study agency to delete from the case record and destroy all other matter prior to sending it to the SDSW for permanent filing. Materials to be deleted and destroyed include the following: duplicate copies of correspondence and other materials; appointment letters of temporary significance; requests for verifications after receipt of the response; handwritten notes of the caseworker; copy of the irregular placement report; any other material of temporary significance.

**30573. CASE DOCUMENTS FILED WITH SDSW.** The following material shall be submitted by adoption agencies regarding children and applicants:

**1. Children**

a. Notice of acceptance of child by the agency, whether for study or for care, (Form AD 550)

b. A certified copy of the relinquishment or notice of procedure in lieu of relinquishment (Form AD 551-A) accompanied by a face sheet giving identifying information on the child and his family,

c. Notification of placement for adoption or replacement which shall show the name of the child placed, date of placement, and the names of the couple with whom the child is placed, (Form AD 558)

d. If the adoption of a child placed by the agency has been, or is being, completed outside the state, notice of the fact,

e. If a relinquishment is rescinded after filing with the SDSW a copy of the agreement between the agency and the parent(s) rescinding it.

f. Notice of removal of child from the adoptive home.

**2. Applicants**

Notice of application. (Form AD 552-A)

**30575. FORMS AND FORM LETTERS.** The forms for relinquishment and consent are prescribed by the SDSW.

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30577. CONTINUING AGENCY RESPONSIBILITY.** An adoption agency is responsible for the care and support of any child for whom relinquishment has been accepted and filed until the child is adopted, dies, or reaches maturity, unless the relinquishment has been rescinded by mutual consent of the agency and the parent or parents. (See Sec. 224m and 224n, Civil Code)

An agency terminating an adoption service must:

1. Pay all financial obligations incurred by it.
2. Refund any fees collected for services not performed by the agency before its termination.
3. Retain or make available sufficient funds.
  - a. To provide for the support of all children for whom relinquishments have been accepted and filed with SDSW.
  - b. To provide for necessary staff to complete its services to all children for whom it has responsibility.
4. Retain staff adequate in number and for the period of time necessary to complete its services and discharge its obligations.

**30579. COMPLETING CASEWORK SERVICES.** The staff retained by the agency to complete its work will be responsible for completing services to its clients as follows:

1. For children in adoptive placement, supervision of the family until adoption can be approved and assistance in completing it.
2. For children relinquished but not placed or children needing replacement, placement for adoption, arrangements for placement through another agency or other permanent plan.

Care and supervision of a relinquished child may be transferred to another agency but the agency to which he was relinquished retains responsibility for him.
3. For children accepted for study or care but not relinquished, casework services to the natural parents and the child until a suitable plan is arranged.
4. For expectant mothers accepted for service, help in obtaining service from other sources.
5. For adoptive applicants who are being studied or where homes have been approved but will not be used, referral to another agency if indicated. Social data and evaluation should be made readily available to other agencies on authorization of the applicant.
6. Services initiated on closed cases should be completed.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30581. CASE RECORDS OF TERMINATED ADOPTION SERVICES.** The full case records on all completed adoptions, placements for adoption, and children relinquished for adoption shall be sent to the SDSW for permanent filing and reference. This will include records and documents regarding natural parents, child, and adoptive parents.

Case records or material or documents, submitted by natural parents or adoptive applicants without expectation of return and those cases terminated without placement may be destroyed, but full identifying information and dates of service shall be indexed and filed with the SDSW.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**SUBCHAPTER 2. RELINQUISHMENT ADOPTIONS**

**Article 1. Program in Adoption Placement Agency**

30583. **AGENCY PROGRAM.** An adoption agency program shall be centered on finding homes for children for whom adoption appears to be the best plan. In accomplishing this, services are given to natural parents and their children and to adoptive applicants.

30585. **AGENCY STANDARDS OF SERVICES.** The processes of intake, placement, supervision, and termination of care shall be in accord with accepted social case work standards and the standards of child care and placement as approved by the SSWB.

30587. **CASE RECORDING.** There shall be a written narrative record containing information which will be used to substantiate decisions and plans of action.

30589. **ACCEPTABLE MEDICAL REPORTS.** Medical examinations and reports shall be completed by doctors who are licensed as physicians and surgeons.

**Article 2. Natural Parents and Children**

30591. **INTAKE POLICIES.** The agency shall accept for service only those children for whom it is free to select adoptive parents.

30593. **SERVICES—NATURAL PARENTS.** The agency shall provide adequate services to natural parents, including casework service and referral to other agencies when indicated, and shall see that help is given to parents in making the best plan for the child and themselves.

30595. **REQUIRED STUDY — NATURAL PARENTS.** The agency shall make a study of the natural parents relinquishing a child for adoption. The study shall include identification, personality and temperament, background information, religion and religious preference for the child, health, marriages, other children and other relevant data which will be helpful in planning for the child.

The agency shall verify marriages and dissolution of marriages including the marriage of parent or parents at time of child's birth; previous marriages of mother, and termination of each by death, divorce or annulment; first marriage of mother subsequent to child's birth.

When verification of the dissolution of all marriages is not possible, the marriages preceding a divorce decree may be deemed to have been validly dissolved. A valid divorce presupposes that the marriage was valid and a valid marriage presumes the proper dissolution of any previous marriage. The last divorce decree can be accepted as disproving the parental relationship of prior presumptive fathers.

NOTE: This applies to divorces as distinguished from annulment. An annulment does not connote the existence of a valid marriage.

Medical reports shall be secured; the report from the obstetrician should include a blood test for syphilis and a statement regarding any complications of pregnancy or birth.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**30597. MATERNITY CARE PROGRAM.** The maternity care allocation shall be used to help the mother with private medical and hospital care when she is financially unable to pay for this care, is not eligible for Medi-Cal and the use of other public medical resources is not indicated to protect the mother and child. This resource is to be used only as an additional resource to help the mother make a sound plan for herself and child when no other resource is available.

**30599. WHO MAY RECEIVE MATERNITY CARE ASSISTANCE.** For purposes of receiving maternity care, the mother may be married or unmarried, but must be considering adoption at the time of approval for maternity care.

**30601. RESOURCES AVAILABLE TO THE MOTHER.** If the mother is eligible for Medi-Cal, she shall not be approved for maternity care from the budget allocation. If the mother is ineligible for Medi-Cal, and requests assistance the total resources (savings, earnings, health insurance, and insurance policy on which she can borrow) of the mother shall be explored and evaluated with her, with her husband, or with the child's father, if appropriate.

If the mother is not willing to use the personal resources available to her and if she has a reasonable basis for not wanting to do so because it would mean, for example, disclosing her pregnancy when she is not willing to make this disclosure, she may be considered for care under the allocation.

When evaluating the resources with the mother, the worker shall take into consideration reasonable living expenses during pregnancy and after delivery.

If determination is made that assistance is needed, the mother shall be approved for maternity care from the budget allocation for only that portion of medical expenses which she is not able to pay or which cannot be paid through other resources.

**30603. LEGAL RESIDENCE.** Legal residence shall not be a requisite for financial aid.

**30605. SERVICES AND STUDY—THE CHILD.** The agency shall provide casework services and care for children accepted by it, including preventive and remedial medical care.

The agency shall make a careful study of each child accepted for adoption service to determine his needs and capacities and to relate them to choosing the family which can offer the best setting for his growth and development. The study shall include identification; de-



**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30605. SERVICES and STUDY - THE CHILD  
(Continued)**

developmental history and evaluation of it in relation to life experience, school data and religious affiliation.

If in case of an adoption completed on or after November 14, 1968, there is an indication the child is or may become physically handicapped, the agency shall refer the child to crippled children's services for diagnostic and treatment services. Medical reports and data to establish child's eligibility for services under Health and Safety Code, Section 273, shall be required.

The agency shall obtain the birth certificate of the child as soon as possible.

The agency shall obtain complete information regarding the legal status of the child.

The agency shall obtain medical reports as necessary. These shall include a written report of testing for Phenylketonuria (PKU) for all newborn infants in accordance with Regulations of the State Department of Public Health, and for filing of the report in the case record. (Title 17, Public Health, Chapter 4, Subchapter 9, Article 1, Section 6500, California Administrative Code.) Where no such test has been administered the agency shall be responsible for seeing that it is done.

The State Department of Public Health Regulations provide for the following exceptions from testing:

a. If a parent or legally appointed guardian objects to a test on the ground that it conflicts with his religious beliefs or practices, or

b. If it is determined by a patient's physician that there are medical contraindications to following the procedure prescribed.

Such exception(s) (a or b above) shall be noted in writing by the parent, legally appointed guardian, or physician, and a report of such exception(s) filed in the case record.

**30607. AUTHORIZATIONS FOR RELEASE OF INFORMATION.** Authorizations for the release of medical and social information shall be obtained from natural parent(s) or from persons who are able to act for the child.

**30609. AUTHORIZATION FOR MEDICAL CARE.** Authorization for medical care to the child shall be obtained from the parent or from persons able to act for the child prior to relinquishment.

**30611. PREADOPTIVE CARE.**

A. An agency shall not accept a child for care until the parent(s) or a person or agency who can act for the child has expressed their interest in adoption.

B. Any facility used to provide foster care shall be licensed or approved in accordance with the standards and procedure of the SDSW.

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FILING ADMINISTRATIVE REGULATIC  
WITH THE SECRETARY OF STATE**

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**306 11 PREADOPTIVE CARE (Continued)**

C. Preadoptive foster care shall not be continued unnecessarily or indefinitely.

D. The agency shall be responsible for carrying out policies in the use of foster care facilities as set forth in the Standards for Child Placing Agencies.

**Article 3. Relinquishment**

**30613. PREREQUISITES TO RELINQUISHMENT.** Prior to accepting a relinquishment the agency shall determine that parent(s) understands the content and effect and has chosen the plan of adoption for the child and that the child can be freed for adoption.

**30615. ACCEPTANCE OF RELINQUISHMENT.** A relinquishment shall not be accepted until after the child is born and the mother has left the hospital.

**30617. ACCEPTANCE OF RELINQUISHMENT—PARENT WITH HISTORY OF MENTAL ILLNESS OR MENTAL DEFICIENCY.**

A. Prior to accepting a relinquishment of a parent who is a patient in or on leave from a state hospital or under private psychiatric care, the following information must be obtained:

1. a. Verification of the type of commitment involved.  
(Voluntary or involuntary.)

b. Whether or not there were separate Probate Court proceedings determining incompetence and appointing a guardian.

c. An unequivocal statement, in writing, from the treating physician stating that the parent understands his rights and the nature, purpose and effect of what he is doing, and has the mental capacity to sign a binding relinquishment. The relinquishment must be signed within 30 days after the date of the examination upon which the statement is based.

2. At the time of taking the relinquishment, the adoption worker must agree on the basis of the worker's own observations that the parent understands the nature and effect of signing the relinquishment and wants to complete the adoption plan. The worker's observations must be a part of the case record.

B. If the parent has a history of mental illness or mental deficiency but is discharged or no longer under psychiatric care, the discharge or termination of treatment shall be verified, before the relinquishment is signed. At the time of taking the relinquishment, the adoption worker must agree on the basis of her own observations that the parent understands the nature and effect of signing the relinquishment and wants to complete the adoption plan. The worker's observations must be a part of the case record.

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**WITH THE SECRETARY OF STATE**

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**30617. ACCEPTANCE OF RELINQUISHMENT - PARENT WITH HISTORY OF MENTAL ILLNESS OR MENTAL DEFICIENCY.**

(Continued)

C. A copy of all written statements by the treating physician shall be attached to the relinquishment when it is filed with the State Department of Social Welfare and the Form AD 90, Face Sheet, must be completed to show all pertinent information under Mental Competency.

**30619. RELINQUISHMENT NOT POSSIBLE BY SOME PARENTS WITH HISTORY OF MENTAL ILLNESS OR MENTAL DEFICIENCY.**

A. A relinquishment shall not be accepted from a parent who is a patient in or on leave from state hospital or under private psychiatric care, when the treating physician refuses to state in writing that the parent is competent.

B. The parent who has been judicially determined to be incompetent under Probate Code Sections 1460-1462 is unable to sign a valid relinquishment, and relinquishment shall not be accepted as long as the decree remains in force.

C. In cases where a parent is not competent to sign a relinquishment, the agency shall explore the possibility of legal action to free the child from parental custody and control under Civil Code Section 232(f).

**30621. RELINQUISHMENT—FORMS.** A relinquishment must be on a form prescribed by the SDSW.

**30623. RELINQUISHMENT—CONTENT.**

A. The name of the agency as licensed by the SDSW shall be on the relinquishment at the time it is signed.

B. The child shall be identified by name, sex, birth date, and place of birth.

**30625. RELINQUISHMENT—CORRECTIONS OR ALTERATIONS.** After a relinquishment has been signed it shall not be corrected nor altered unless the corrections and/or alterations are initialed by the parent signing the document and by the authorized official of the agency before whom the relinquishment was acknowledged.

Article 4. Work With Applicants for Children

**30627. ACCEPTANCE OF APPLICATIONS.**

A. In accepting applications, an agency shall consider the needs of children in care of other California agencies as well as those in its own care.

B. When the computerized exchange system is initiated, an agency shall accept applications only from persons living in the area covered by its license. The State Department of Social Welfare may authorize an agency to accept applications from persons living outside the area covered by the license when this is necessary to meet the needs of specific children, and there is no public adoption agency to serve the applicants.

C. Applications from single persons, whether unmarried, widowed, or divorced, may be accepted when two parent families cannot be found to meet the needs of particular children.

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**30627. ACCEPTANCE OF APPLICATIONS (Continued)**

D. Applications to adopt a specific child may be accepted only when necessary to meet the needs of the child.

**30629. APPLICATION—PREREQUISITE TO STUDY.** An application signed by both applicants shall be on file in an agency before a study is undertaken.

**30631. SELECTING HOMES FOR STUDY.** An agency shall give priority to families who appear to meet the needs of children in its own care and those in care of other agencies in selecting homes for study.

When a home under study is registered with the Adoption Resource Referral Center and is referred for a child, the study shall be completed promptly by the registering agency if request for completion is made by the child's agency.

**30633. INTERVIEWS DURING STUDY.** There shall be at least four interviews with applicants before the family is approved. This number may include the intake interview, two with the couple together, and one with each of them separately. At least one of the interviews with the couple shall be in their own home. If there are other members of the family, including children, they shall be interviewed.

**30635. AUTHORIZATIONS.** Authorizations shall be obtained from the applicants for release of medical, social, and employment information.

**30637. CONTENT OF STUDY.** A study and evaluation of applicants shall be made before they are approved for the placement of a child. The study shall include age, nationality and race; motivation for adoption; preferences for a child; capacities and attitudes; personal relationships and personality; marriages, health, employment and finances, religion, education, environment.

The present marriage and all previous marriages and terminations of marriage shall be verified.

Medical reports on each applicant including chest X-rays and blood tests for syphilis shall be required. Exception may be made only when the agency waives the reports for members of religious groups who depend upon faith and prayer for healing.

If a child is not placed within a year or if there are indications of health problems, a re-examination shall be required before placement is made.

The applicant's current employment shall be verified.

If an applicant is foreign born, there shall be verification that he is in the United States legally.

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FILING ADMINISTRATIVE REGULATIC  
WITH THE SECRETARY OF STATE**

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## Article 5. Placement and Supervision

**30639. FACTORS IN PLACEMENT.** No child shall be placed for adoption until he is legally free, unless it is necessary for his welfare, and until the agency believes that he can develop in an adoptive home.

**30641. RESPONSIBILITY OF AGENCY TO INFORM ADOPTING OR FOSTER PARENTS ABOUT LAW REGARDING CONCEALMENT OF A CHILD.**

**A. Taking Child Out of County or State.** The agency shall tell adopting or foster parents that the law prohibits taking a relinquished child out of county or out of state without permission of the agency. They shall also be informed that the law:

1. Prohibits concealing a child at any time from the time of placement until the completion of adoption.

2. Prohibits the family from taking the child out of the county or state except with prior approval of the adoption agency.

3. Prohibits any person removing a child relinquished under Section 224m of the Civil Code from the county in which the child was placed; a relinquished child may not be removed for any period of time by any person who has not petitioned to adopt the child without consent of the agency.

4. Requires that if a petition has been filed for the adoption of the child, petitioners must give advance written notice of intent to remove the child and secure permission of the court to do so; the agency has fifteen (15) days to file an objection with the court. This provision does not apply if the child is to be absent for not more than 30 days provided that a notice of recommendation of denial has not been personally served on the petitioners or the court has not issued an order prohibiting the removal.

5. Provides that a violation of this law (Section 226.10 Civil Code) is a violation of Section 280, Penal Code, subject to punishment by:

a. Imprisonment in the county jail for not more than one year if the child is concealed within the county; or removed from such county to another place in the state.

b. By imprisonment in a state prison for not less than one year and not more than five years, or in the county jail for not more than one year if the child is removed outside of the state.

**B. In cooperative placements,** approval for taking the child out of the county or state is to be given by the adoption agency providing services to the family after the plan has been reported to the agency holding the relinquishment.

**C. The agency shall clearly explain to the adopting family the agency's regulations pertaining to trips outside the county. The agency may provide advance written approval to cover short trips.**

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**30643. SELECTION OF ADOPTIVE PARENTS FOR CHILD.**

In choosing adoptive parents for a child the agency shall select from its approved applicants the family which is best able to meet his needs.

The child shall be placed with adoptive parents whose religious faith is the same as his own or that of his parents. Exception can be made in accordance with the expressed wishes of the parent(s).

The chosen adoptive parents for a physically handicapped child shall be informed of the child's eligibility for crippled children's services under the Health and Safety Code, Section 273, C.C.S. Manual, Section 6.3.3/A.1.e. and 6.3.3/B.9.

**30645. PLACEMENT AGREEMENT BETWEEN THE AGENCY AND THE ADOPTIVE COUPLE.**

After a decision is reached by the agency and a couple regarding the placement of a child, the agency and the couple shall enter into an agreement covering the rights and responsibilities of each during the placement.

**30647. SUPERVISORY PERIOD AFTER PLACEMENT FOR ADOPTION.**

There shall be an interim period between the placement and the final adoption, during which the agency will provide casework services to the family. This period shall normally be one year. It shall not be less than six months unless a reduction is necessary in order to protect the welfare of the child in which event the approval of the SDSW shall be obtained.

There shall be at least four interviews with the couple during the supervisory period, two of which shall be in the home with the child and both parents.

The agency shall provide appropriate services to the physically handicapped child and the adoptive family to obtain or continue crippled children's services as indicated.

**30649. SERVICES AND LEGAL COMPLETION OF ADOPTION WHEN FAMILIES MOVE AFTER PLACEMENT.** (a) For families in the following categories special arrangements shall apply:

(1) Adoptive families who are residents but parents are in military service, or auxiliary thereof, of the United States, or any of its allies or Red Cross outside California.

(2) Other families who are residents of California but who move out of state prior to completion of the adoption in California.

Consideration and discussion of the possibility of the family's moving before completion of the adoption shall precede placement. In planning for families who must move after placement, the adoption laws governing the place to which they move shall be explored. If the laws of the other state would prevent completion or delay the adoption, or if for other reasons the agency and the family decide the adoption should be completed in California, the agency will plan for a prior

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**FILING ADMINISTRATIVE REGULATIC**  
**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30649. SERVICES AND LEGAL COMPLETION OF ADOPTION WHEN FAMILIES MOVE AFTER PLACEMENT.**

(Continued)

court appearance for the couple and child while they are still residing in California. The intent of military or Red Cross personnel to appear in court by counsel or in person shall be determined.

If the adoption is to be completed outside California, the California agency shall provide the out of state agency with the documentation required, and will request notification of the completion of the adoption and a copy of the decree. The child's agency will assist in securing an amended birth certificate for the child.

If the adoption is to be completed in California and shortening of the supervisory period is to be considered in order to complete the adoption prior to leaving California, Section **30647** shall apply.

(b) If the family moves before the adoption is completed, the California agency shall discuss with the adoptive couple prior to the move the role of any necessary cooperating agency and the continuing role of the placing agency. Suitable cooperative arrangements with an appropriate out of state agency shall be made as follows:

(1) Request for out of state agency services shall be sent to the State Department in the other state, unless the American Public Welfare Association (APWA) Directory specifies otherwise. A private adoption agency may request out of state service from an accredited Child Welfare League of America agency which offers adoption service; a copy of the request is to be sent to the State Department in the other state.

(2) Requests for service for families moving to other countries shall be made to the American Branch of the International Social Service, or the National Catholic Welfare Conference.

(3) Copies of requests for service and subsequent correspondence shall be sent to the Adoptions and Foster Care Bureau, State Department of Social Welfare.

(c) The requests to the other agency shall include a clear statement of:

(1) the service requested and the help the family needs; (2) the reports expected in accordance with California regulations; (3) whether legal completion of adoption is to be in California or in the other location; (4) arrangements that the agency has made for the return of the child to the California agency if the placement is unsuccessful; (5) information regarding fees paid or to be paid.

(d) Pertinent information shall be exchanged between the California agency and the out-of-state agency with respect to:

(1) The family and its ability to integrate the child into the family.

(2) Information regarding the child, including physical, mental and social development and provisions for any needed medical care.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**Article 6. Court Proceedings and Completion  
of Adoption**

**30651. MEDICAL RESPONSIBILITY OF THE AGENCY.**

Prior to completion of adoption, the agency shall:

- (a) Obtain a final medical report on the child.
- (b) If this report indicates a possible physical problem previously not identified or reported, the agency shall refer the child to crippled children's services for determination of eligibility and services.
- (c) Complete necessary documents and reports for continued crippled children's services to the child after adoption, unless expressly instructed by the family not to do so.
- (d) Determine whether referral to crippled children's services has been previously made and verify whether diagnosis and eligibility has been completed.

**30653. RESPONSIBILITY OF AGENCY TO TELL PETITIONERS ABOUT DISBURSEMENT REPORT.** The agency shall tell the adopting parents that the law requires them to file a report with the court on all expenses paid by them or in their behalf in connection with the birth and adoption of the child. This report shall include the fees paid to the agency by the family.

**30655. AGENCY JOINDER AND CONSENT TO ADOPTION.**

- (a) If the agency approves the adoption, it shall join in the petition and shall give its consent.
- (b) A separate form of Joinder executed by the agency shall be sent to the attorney who will transmit the original petition and the Joinder to the clerk's office for filing. The Joinder and consent shall be sent to the attorney after the petition has been executed and verified by the petitioners.

(1) The Joinder shall show the original name of the child as it appears on the copy of the birth certificate, the date of birth, the place of birth including city and county and the sex of the child.

(2) The consent of the agency to the adoption shall be included in the Joinder except in those cases in which it is necessary to file the petition before it is time to complete the adoption or the agency plans to file the consent at the time of hearing.

**30657. COURT REPORT BY AGENCY.** The agency shall file with the court a report on any petition which may be filed for a child relinquished to it and placed for adoption by it.

**30659. PLEADING BY AGENCY.** If a petition for the adoption of a relinquished child is filed by a person(s) with whom the agency has not placed him for adoption, the agency shall file a pleading with the court asking that the petition be dismissed.

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**30661. MOTION BY AGENCY FOR APPROVAL TO TERMINATE PLACEMENT.** The agency shall not remove any child (founding, relinquished, or freed for adoption by action in lieu of relinquishment) without prior approval of the court after a petition for his adoption has been filed, and prior to the denial thereof, by a person(s) with whom the agency has placed him for adoption.

**30663. CERTIFICATE OF ADOPTION.**

**A. Responsibility for Preparing Certificate.** The agency shall complete the Certificate of Adoption and file it with the county clerk.

**B. Birth Certificate when a Parent Dies before Adoption Completed.** If both adopting parents are living at the time of the initial placement, but one parent dies before the adoption is completed, the agency shall tell the adopting parent that the law:

1. Permits showing both names on the Adoption Certificate if the Order of the Court granting the adoption directs that the name of both parents be included.
2. Provides that the inclusion of the name of a deceased person on the adoption Birth Certificate does not:
  - a. Affect any matter of testate or intestate succession;
  - b. Constitute competent evidence on any issue of relationship between the adopted child and the deceased person in any procedure or action.
3. Permits retroactive application of this procedure under the same circumstances if the adopting parent initiates an action in the superior court of the county in which the petitioner resides and the court orders that the amended birth record be amended again to include the deceased parent's name. In this case a fee of \$5 is required for the preparation of the amended record if a prior Adoption Certificate has been issued.

**CONTINUATION SHEET**  
**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**\* Article 7. Aid for the Adoption of Children**

**30665. ADOPTION AGENCY RESPONSIBILITY FOR SERVICES UNDER PILOT PROGRAM (PUBLIC AND PRIVATE).**

**A. Notice of Intent to Participate.** A licensed adoption agency wishing to participate in this program shall notify the Adoptions and Foster Care Bureau, SDSW, by letter of intent. The letter shall include: (1) an estimate of the number of children expected to be served by the project; (2) an estimate of the funds needed for aid to families showing the number of cases by the estimated amount of aid according to the length of time; (3) a copy or statement of the counties' boarding home rates for children.

The law provides that the financial assistance to a family may not be more than the amount which would be paid for foster care for the child nor for a period longer than three years.

Interim approval for operation may be given with the understanding that within two months the agency will submit to the Adoptions and Foster Care Bureau the agency's plan for implementation to include policies, instructions, and informational material developed for staff in the agency.

Although interim approval may have been given, the department may condition final approval upon submission of amendments to material if the intent of the law or the regulations has not been clearly stated.

**B. Implementation of Program.** Based on the individual agency's experience and needs, the plan for implementation of the program shall include:

1. How the agency plans to help and assist families. This should indicate:
  - a. Some of the situations and kinds of help known to be needed by local families.
  - b. The plan for individual determination on a case basis of the amount of assistance and the period of time assistance will be needed.
  - c. The services needed by local families in addition to financial assistance, and the resources in the community available to provide such help. If resources are not available, how will help be provided?
  - d. Recognition that some families requiring financial assistance initially may still wish to pay a nominal fee and be able to do so at a later date.
  - e. If the agency believes there will be some unusual expenses for families which might be paid from AAC funds, the plan should identify these in order that the Department may indicate whether they would or would not be considered appropriate and could be an approved use of funds.

\* **NOTE:** The provisions of these regulations become operative on January 1, 1969, and continue for a period not to exceed 3 years from the placement of the last children on December 31, 1971. If the program is made a permanent part of the adoption program by the 1971 Legislature these regulations will be obsoleted in 1971 and reissued as a permanent integrated part of Title 22 of the California Administrative Code.

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**30665. ADOPTION AGENCY RESPONSIBILITY FOR  
SERVICES UNDER PILOT PROGRAM (PUBLIC and  
PRIVATE). (Continued)**

2. How the agency will select the children. This may be a summarized description of the group currently identified as needing to utilize this program to facilitate placement and the future number and characteristics of children to be included in the project.

3. How the agency plans to recruit families. This may be based on the agency's past experience, with families who have wanted to adopt, but not been accepted or approved because of temporary financial inability to assume the expense.

4. How the agency will select families for the program, and a summarized description of those currently considered as potential AAC families.

5. How the agency plans to publicize the program and evaluate the results. This should be specifically related to the individual county or local agency situation and may be a part of an ongoing publicity program. If additional and special publicity efforts are necessary, the agency should indicate the general plan. In considering the need for publicity, agencies should consider not only the children under their care but the needs of children statewide.

6. Other information the adoption agency considers pertinent and important.

**C. Periodic Report and Evaluations.** Periodic reports and evaluation of the program shall be made to the Adoptions and Foster Care Bureau.

**D. Public Information Campaign.** The law requires that there be a public information campaign in order to inform the public that families from a variety of economic levels and backgrounds are needed and wanted. In planning the public information campaign, the local agency shall evaluate and determine the extent of campaign necessary within the county to meet its individual needs; however, there shall also be consideration given to the statewide needs for certain children.

1. The public information campaign shall:

a. Announce the availability of desirable children for adoption by families of all income levels.

b. Avoid implying that all children of certain ethnic backgrounds or age or handicaps are "hard to place," "second best" or that all families have to be paid to adopt them.

c. Avoid implying that all families of certain background have low incomes and require assistance.

d. Clearly interpret that financial assistance may be available and the fee waived.

2. Copies of material released by the agency for public interpretation for this program shall be sent to the Adoptions and Foster Care Bureau.

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**WITH THE SECRETARY OF STATE**

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**30665. ADOPTION AGENCY RESPONSIBILITY FOR SERVICES UNDER PILOT PROGRAM (PUBLIC AND PRIVATE). (Continued)**

**E. Application of Regulations, Title 22, Division 2, California Administrative Code.** Services to persons participating in the pilot program known as Aid for Adoption of Children shall be in substantial compliance with the basic regulations under Subchapter 1, Adoptions, Title 22, Division 2, of the California Administrative Code.

**NOTE:** Chapter 1322 enacted by the 1968 Legislature added Sections 16115 through 16123 of the Welfare and Institutions Code to (1) encourage and promote the adoption of children for whom adoptive families are not readily available; (2) require the SDSW to administer and establish a pilot program to be carried out by any licensed county adoption agency; (3) determine (a) the extent to which a public information campaign on adoptions would increase the adoptive families for these children, (b) the extent to which financial assistance can increase the number of adoptions, especially among lower income families, and (c) the extent of financial assistance, if any, which is needed; (4) require the SDSW to report progress to the Legislature by March 1 of each year and final report in 1971, in time for the Legislature to decide whether the pilot program should become a permanent part of the adoption program; (5) permit counties to give financial assistance up to the amount which would have been paid for foster care if placement for adoption had not occurred and permits waiving of fee for adoptive parents participating in the program; (6) provide that funds used for this purpose are to be transferred to a special account from the foster care funds; (7) require counties to pay county share of the cost in lieu of foster care payments from county funds; (8) provide that the program is operative January 1, 1969, placements under this chapter must be made by December 31, 1971, and assistance must be limited to a maximum of 3 years.

This law states that the intent of the Legislature is to (1) benefit "hard to place" children residing in foster homes at state expense, by providing the stability and security of permanent homes, and (2) to achieve a reduction in state expense by reducing costly foster home care.

These regulations are intended to initiate the program and implement the legislation. It is recognized that revised or new regulations will need to be issued as amendments or additions. As agencies identify problems or need for policies in this new and complex pilot program, these should be sent immediately to the Adoptions and Foster Care Bureau.

Chapter 261 enacted by the 1969 Legislature amends Sections 16117 and 16118 of the Welfare and Institutions Code. The amendment to the program is operative and extends the program to include children with mental, emotional or medical handicaps. The amendment establishes the two year pilot program to be carried out by any licensed adoption agency.

**30667. PERSONS SERVED UNDER THE AID FOR ADOPTION PROGRAM (PUBLIC AND PRIVATE).** Families and children shall be included in the program and be granted financial assistance only when both the child and the family meet the requirements of the law and regulations. The determination to include either the child or family in the program shall be based on an evaluation of the individual child or of the individual family.

**A. Children.**

1. The children selected for this program shall be relinquished, or otherwise legally free, who are under foster care or would have to be placed or remain in long-term foster care because prospective adoptive homes are not readily available. These include:

- a. Children over 7 years of age.
- b. Children who have physical, mental, emotional or medical handicaps.

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**30667. PERSONS SERVED UNDER THE AID FOR ADOPTION PROGRAM (Public and Private). (Continued)**

c. Children whose ethnic background, race, color, or language, makes placement in adoptive homes difficult because of the scarcity of homes requesting these children.

2. In selecting children for the program, the agency shall first utilize the SDSW expanded exchange program to determine if a placement with a family not requiring financial assistance is possible and will serve the best interest of the child.

3. Children who have some of the characteristics identified under Item A.1 but for whom families not requiring financial assistance are available are not to be considered or reported as a part of the Aid for Adoption Program. A record of these children shall be maintained and reported as a Control Group, to evaluate any differences in the children and families.

4. The case record shall give the basis for the agency's decision that:

a. The child is "hard to place," and

b. An adoptive family not requiring financial assistance is not available for adoptive placement of the child, including how and when the agency cleared with the mandatory exchange.

**B. Families.** The prospective adoptive families selected for this program shall be families who need short-term financial assistance not to exceed three years and not to exceed the amount which the county would pay for foster care for the child, and who meet the following criteria:

1. Lower-income families; or

2. Families who are economically disadvantaged because of ethnic background, race, color, or language, and who would not otherwise be able to adopt a child at this time; or

3. The family's need to have assistance at the time of placement and adoption shall be the basis for giving short-term financial assistance.

**30669. FINANCIAL ASSISTANCE (PUBLIC AND PRIVATE).**

**A. Determination of Amount and Period of Assistance.** This is a time-limited aid program, which may include continued assistance after the legal consummation of adoption. Assistance will be paid for current living expenses related to placing of child in the adoptive family.

1. The agency shall evaluate the family's needs and the aid needed to best help the child and the family. The amount and duration of aid will be based on the family situation, including consideration of income and expenses. The amount must be based on the needs of the family that are attributable to the placement of the child and are for the welfare of the child.

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**30669. FINANCIAL ASSISTANCE (PUBLIC AND PRIVATE). (Continued)**

2. The amount may not exceed the amount which the county would pay for foster care and the duration may not exceed three years after placement.

3. After placement the amount shall be adjusted upward or downward, extended or discontinued in accordance with the changing needs of the family, but may not exceed the maximum time and amount permitted by law.

4. The case record shall clearly reflect the decisions made and the basis for them.

5. At the time of placement the decisions made by the agency and the family shall be set forth in the placement agreement, copy of which shall be given to the family. The agreement shall include the following:

The family agrees, that after placement and after adoption, they will immediately notify the agency in the event that circumstances change in order that the agency may give any help indicated including reevaluation and adjustment of the assistance, if needed.

6. In order to evaluate the results of the program, the agency shall contact the family two months before aid is discontinued.

7. It is the intent of the program generally to permit the adopting family members to function autonomously as they are capable of doing in the interest of promoting healthy family life. There is no need for the agency to make periodic reviews since the family is expected to act responsibly in accord with the agreements with the agency.

**B. General Guidelines.** The following represents some situations which might indicate a family should be considered for assistance under the AAC program:

1. Working applicants who need assistance to ease the transition and adjustment of the child in the home by allowing the mother to stop work during the post-placement period.

2. Foster parents who need transition assistance economically in assuming full responsibility for the child.

If the child is already in the foster home, generally the agency would use the amount being paid for BHC as the amount of aid but would negotiate with the family the length of time aid required and the possibility of gradual reduction of the amount.

3. Applicants who need assistance to cover special needs or services such as legal services not available elsewhere, special education or therapy, medical and psychiatric services not available under Medi-Cal or Crippled Children's Services, or help with furnishing or providing additional space.

4. Applicants whose financial resources are temporarily inadequate, for example, a couple completing education.

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**30671. RESPONSIBILITY FOR PAYMENT—AID FOR ADOPTION OF CHILDREN.**

**A. Public and Private Agencies.** The county responsible for payment of financial assistance for the child under AFDC-BHI is responsible for payment of financial assistance in the Aid for the Adoption of Children program. Payments may be made out of the county and out of the state.

1. The payment shall be made directly to the adopting family in the family's name.

2. The child's former case, when there is a case, shall be closed and a new case opened. The new case shall be in the name of the family and shall be numbered in the Aid for Adoption of Children program. The child's name, when used, shall be the name given by the adopting family.

3. The category for claiming for all counties in the Aid to Adoption of Children program is 04.

4. The adoption staff is responsible for determining and authorizing the amount needed and the length of time the assistance is given. Payments shall be made on the basis of the adoption staff's decision. In a cooperative placement determination is made by mutual assessment and agreement between the agencies.

**B. Private Adoption Agencies and the State Department of Social Welfare Relinquishment Unit.**

1. Arrange for payment in the Aid for Adoption of Children program from the same county which would pay for AFDC-BHI for the child. The amount of the payment and the length of time the assistance is needed shall be determined by the private adoption agency or the SDSW Relinquishment Unit, but must not exceed the maximum amount and time permitted by law.

2. Upon certification of the private adoption agency or SDSW Relinquishment Unit, the county agency responsible for Aid for the Adoption of Children shall authorize the payment.

**30673. WAIVER OF FEE (PUBLIC).**

**A. Families With Low Income.**

1. The fee will be waived for families requiring financial assistance and participating in the Aid for Adoption program. Exception may be made if circumstances change and the family wishes to pay some part of the fee.

**B. Families Only Receiving Reduction or Waiver of Fee.**

1. Generally the fee would be reduced or waived for families in low-income bracket who state they do not need or want financial assistance.

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**30673. WAIVER OF FEE (PUBLIC) (Continued)**

2. Consideration may be given to waiving the fee or reducing it for a family in a higher income bracket who has heavy financial responsibilities, but who does not need financial assistance. The fee will not be waived for any family solely on the basis that they are adopting a child from the so-called "hard to place" group.

For families falling into groups described in the (1) and (2) above the needs of the total family in relation to not only the income but expenses, present and future, will be considered in determining whether the fee should be waived or reduced. In these cases neither the family nor the child shall be counted as part of the AAC Program, but shall be reported in the control group.

**Article 8. Adoption Resource Referral Center**

**30675. INITIAL REGISTRATION. Children.** All children for whom adoption agencies are responsible, except those freed for adoption within 60 days prior to the beginning of the computerized adoption exchange system, or those for whom a specific placement is currently under consideration, shall be registered with the Adoption Resource Referral Center when the system is initiated. This will provide an inventory of all children who have been legally free for adoption for more than 60 days. Data on children who are ready for adoption will be entered in the exchange referral system file. Data on children currently not ready for adoption both those expected to be ready at a later time and those who apparently may never be adopted, including children for whom guardianship has been provided or other permanent plan made, will be retained in the inventory file. If the status of a child changes, data will be entered into or removed from the exchange system files.

The combined data of the inventory and referral system files will provide information for program planning to meet the needs of children in care of adoption agencies.

**Families.** All families who have been approved for more than 60 days, except those for whom a specific placement plan is under consideration, shall be registered with the Adoption Resource Referral Center when the computerized exchange system is initiated.

**30677. ONGOING REGISTRATION. Children.** Children for whom a placement plan has not been made within 60 days after they are free for adoption shall be registered immediately. Data on those who are not ready for adoption will be recorded only in the inventory file. Data regarding those who are ready for placement will be recorded in the referral system for interagency referral.

A child may be registered as soon as it is apparent that no appropriate home is available locally.

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**30677. ONGOING REGISTRATION (Continued)**

**Approved Homes.** Families for whom a placement plan has not been made within 60 days after approval shall be registered immediately.

An approved family may be registered as soon as it is determined that the home is not needed for a local child.

**Homes Under Study.** A family under study (application signed and intake interview completed) whose home is not needed for a local child shall be registered immediately if the kind of home is needed for a child in care of another agency.

If the registering agency is unable to study immediately a home needed for a child in care of another California agency, the Adoption Resource Referral Center may refer the home for study to an agency able to complete the study and provide services if the family is in agreement with this plan.

**Registration Forms.** Children and homes shall be registered on forms provided by the Adoption Resource Referral Center.

**30679. REFERRALS.** Printed referrals of possible homes for children and of children for families will be forwarded to agencies by the referral system. Action shall be taken and reports sent to the Adoption Resource Referral Center by agencies within the time limits established by the State Department of Social Welfare.

**30681. WITHDRAWALS.** When a placement is made, or a child or family is no longer available for another reason, the agency shall withdraw the registration immediately. Withdrawal forms will be provided by the Adoption Resource Referral Center.

**30683. COOPERATION WITH ADOPTION RESOURCE EXCHANGE OF NORTH AMERICA.** California families have priority for placement of California children. Cooperative placements through the Adoption Resource Exchange of North America may be considered if no home is available in California for a child or if there is no child for a family. Referrals of registrations from California agencies to the Adoption Resource Exchange of North America will be made by the Adoption Resource Referral Center, and registration from the Adoption Resource Exchange of North America will be made available to California agencies through the Adoption Resource Referral Center.

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**SUBCHAPTER 3. INDEPENDENT ADOPTIONS**

**Article 1. The Study**

**30685. TIME ALLOWED FOR STUDY.** The study process shall be initiated immediately on receipt of the assignment from the SDSW Bureau of Adoptions or of an endorsed copy of the petition. There shall be interviews with the parties to the adoption within 45 days following the filing of the petition. If, in these interviews, the petitioners' suitability, the care provided the child, or the availability of the consent appears to be seriously questionable, there shall be an early investigation of the circumstances.

The study shall be completed by the due date, unless an extension of time has been granted by the court.

**30687. THE ADOPTIVE HOME.** There shall be as many interviews with the adopting parents and other persons as are necessary, but there shall be at least one home interview with the adopting parents and the child. If at the time the report is submitted, more than three months have elapsed since the last contact with the adopting parents another contact must be made.

**30689. CONTENT OF THE STUDY.** There shall be a study of the petitioners to determine their suitability as adoptive parents for the child. The study shall cover how placement was made; acceptance of adoption, personal adjustment, marriage, family relationships, understanding of the needs of children, plans and opportunities for the child's social development, religious training, education, health, housing, and financial resources.

A medical report of an examination of each adopting parent made within a year of the filing of the report shall be obtained. This shall include serological tests and chest X-rays. If the adopting parents and the child and/or the child's parents are members of a religious sect, denomination, or organization which, in accordance with its creeds or tenets, relies upon faith and prayer for healing, and the parents have consented to the adoption by the petitioners as members of such sect, denomination, or organization, the usual requirement for medical examination may be waived.

**30691. THE CHILD.** There shall be a study of the child which shall include his background, his development, his health, including necessary examinations and reports, and his adjustment in the home of the adopting parents.

**30693. THE PARENTS.** Information shall be obtained from the parent(s) regarding the child and his background, their plans for the child, and their attitude toward the adoption and consent. There shall be as many contacts with them as are necessary.

**30695. ADOPTIVE PETITIONERS ABSENT FROM CALIFORNIA.** (a) For petitioners in the following categories special arrangements shall apply:

1. Adoptive petitioners who are California residents but are in military service, or auxiliary thereof, of the United

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**30695. ADOPTIVE PETITIONERS ABSENT FROM CALIFORNIA**  
**(Continued)**

States, or any of its allies, or in the American Red Cross and are outside California;

2. Other petitioners who are residents of California but are not living in the state, or who move out of the state prior to the completion of the adoption in California.

Arrangements with an out of state agency for study of the petitioners' home and the child as provided in these regulations, 36313, and 36315 shall be made. If the natural parents are also outside this state, arrangements shall be made with the appropriate out of state agency for information from natural parents.

The California agency is responsible for sending the questionnaire to the petitioners for securing necessary verifications of marriages and divorces, and employment. Also, it shall send the required medical reports to the petitioners for completion by their physician.

Generally, the consent of the parent will not be taken until information about the family has been received from the out of state agency. If the parent refuses consent, effort shall be made to provide appropriate assistance to her in securing the return of the child.

The residence of the petitioners must be determined since adoptions are statutory actions and the law provides that the petition is to be filed in the county in which the petitioners reside. Consideration shall be given to union of act and intent as evidenced by maintaining voting residence, permanent mailing address, personal possessions or home, and the expressed intent to return to this state when the reason which required absence from this state no longer exists. The court report shall include the facts which have been determined in establishing the residence. If there is a question of residence, this fact shall be called to the court's attention.

In those cases in which it is necessary to file a preliminary court report, the agency shall clearly state in the opening paragraph whether the report is based on a full study or on an incomplete study.

Agencies shall interpret to attorneys the importance of an agency contact with the natural parents and with the petitioners before the child is taken out of state.

(b) Requests to Out of State Agencies for Service.

(1) Requests for service made to an agency in another state shall be sent to the state department in that state unless the American Public Welfare Association (APWA) Directory specifies otherwise.

(2) Requests for service for petitioners living in other countries shall be made to the American Branch of the International Social Service or National Catholic Welfare Conference.

(3) A copy of the initial request for service shall be sent to the Adoptions and Foster Care Bureau, State Department of Social Welfare. Problems encountered in securing service shall be immediately reported to the bureau. If the request for service is refused, the out of state agency shall be requested to provide names of qualified agencies or members of Academy of Certified Social Workers (ACSW) to which the petitioners or natural parents shall be referred for service. The out of

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**30695. ADOPTIVE PETITIONERS ABSENT FROM  
CALIFORNIA (Continued)**

state agency or ACSW providing the required service for the natural parent shall be told that an out of state consent must be signed before a notary public or other person with notarial power.

(4) The request to the out of state agency shall include a clear statement of the services requested including the determination of residence and the reports expected in accordance with California regulations identified in Section (a).

(A) If the petitioners are in military service or American Red Cross, the out of state agency shall be requested to determine whether the family intends to come to California for court appearance or to appear by counsel.

(B) Whether there has been a prior court appearance made, if this fact known.

(C) If the petitioners are not in the military service or American Red Cross, the out of state agency shall be requested to explain to them that there must be a court appearance before the adoption can be completed.

(e) Pertinent information shall be exchanged between the California agency and the out of state agency with respect to the petitioners, the child, and the natural parents.

**30697. THE NARRATIVE RECORD.** There shall be a written narrative record containing information which will be used to substantiate decisions and plans of action.

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**30699. RESPONSIBILITY OF AGENCY TO TELL PETITIONERS ABOUT DISBURSEMENT REPORT.** The agency shall tell the adoptive petitioners that the law requires them to file a report with the court on all expenditures paid by them or in their behalf in connection with the birth, placement and adoption of the child.

**30701. RESPONSIBILITY OF AGENCY TO INFORM PETITIONERS ABOUT CONCEALMENT PROVISIONS.**

**Concealment—Taking Child Out of County or State.** The agency shall tell the adopting parents that the law:

1. Prohibits concealing a child at any time from the time of filing of petition until the completion of adoption.

2. Prohibits the family from taking the child out of the county or state except with prior approval of the adoption agency.

3. Requires petitioners give advance written notice of intent to remove the child and secure permission of the court if an adoption petition has been filed. In such cases the person must give advance written notice of intent to ask permission of the court and the agency is permitted (15) days from the date of notice to file an objection with the court.

4. Does not apply:

a. If the child is to be absent for not more than 30 days provided a Notice of Recommendation of Denial has not been personally served on the petitioners or the court has not issued an order prohibiting the removal.

b. In a stepparent adoption.

c. If the child has been returned to and remains with his natural parent(s).

d. If the child has been relinquished for the adoption under Section 224m of the Civil Code and written consent is obtained from the SDSW or the licensed agency.

5. Provides that a violation of this law (Section 226.10 Civil Code) is a violation of Section 280, Penal Code, subject to punishment by:

a. Imprisonment in the county jail for not more than one year if the child is concealed within the county; or removed from such county to another place in the state.

b. By imprisonment in a state prison for not less than one year and not more than five years, or in the county jail for not more than one year if the child is removed outside of the state.

**30703. MEDICAL REPORTS AND EXAMINATIONS.** Medical examinations and reports on the child and the adopting parents shall be completed by a doctor who is licensed as a physician or surgeon.

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(Pursuant to Government Code Section 11380.1)

30703. **MEDICAL REPORTS AND EXAMINATIONS (Continued).**

The agency shall obtain medical reports as necessary. These shall include a written report of testing for Phenylketonuria (PKU) for all newborn infants in accordance with Regulations of the State Department of Public Health, and for filing of the report in the case record. (Title 17, Public Health, Chapter 4, Subchapter 9, Article 1, Section 6500, California Administrative Code.) Where no such test has been administered the agency shall be responsible for seeing that it is done.

The State Department of Public Health Regulations provide for the following exceptions from testing:

- a. If a parent or legally appointed guardian objects to a test on the ground that it conflicts with his religious beliefs or practices, or
- b. If it is determined by a patient's physician that there are medical contraindications to following the procedure prescribed.

Such exception(s) (a or b above) shall be noted in writing by the parent, legally appointed guardian, or physician, and a report of such exception(s) filed in the case record.

**30705. AUTHORIZATIONS.** Authorizations for the release of medical, social, and current employment information, shall be obtained from the adopting parents. Authorizations shall be secured from the natural parent(s) for the release of medical and social information, and to authorize the adopting parents to provide medical and surgical care for the child.

**30707. VERIFICATIONS.** There shall be verification of the current marriage, previous marriages, and any dissolution of marriage of the adopting parents, and of the natural parent who claims custody of the child.

When verification of the dissolution of all marriages is not possible, the marriages preceding a divorce decree may be deemed to have been validly dissolved. A valid divorce presupposes that the marriage was valid and a valid marriage presumes the proper dissolution of any previous marriage. The last divorce decree can be accepted as disproving the parental relationship of prior presumptive fathers.

NOTE: This applies to divorces as distinguished from annulment. An annulment does not negate the existence of a valid marriage.

The adopting parents' current employment shall be verified and, if either adopting parent was foreign-born, the fact that he is in the United States legally shall be verified.

**30709. VERIFICATION OF REMOVAL OF CHILD FROM ADOPTIVE HOME.** In cases of denial or dismissal when the child has reportedly been removed from the adoptive home by his parents, the fact that he is no longer in the home shall be verified before filing an incomplete report.

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WITH THE SECRETARY OF STATE**

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Article 2. Other Processes Related to Study

**30711. Concurrent Petitions.** In the case of concurrent petitions pending for the adoption of a child the agencies shall exchange information on their studies and agree as to the best plan for the child.

**30713. EXTENSION OF TIME.** A formal request shall be made to the court for any extension of time with copy to the attorney for the adopting parents. If an extension is granted the report shall be filed by the new due date.

Article 3. Consent

**30715. TAKING CONSENT.** The agency shall not take the parent's consent until after the petition has been filed. The mother's consent shall not be taken by the agency while she is still in the hospital nor until she has recovered sufficiently from the child's birth to make a decision and fully understands the meaning of the signing of the consent.

**30717. TAKING CONSENT—PARENT WITH HISTORY OF MENTAL ILLNESS OR MENTAL DEFICIENCY.**

(a) Prior to taking consent from a parent who is a patient in or on leave from a State hospital or under private psychiatric care, the following information must be obtained:

(1) (A) Verification of the type of commitment involved.  
(Voluntary or involuntary)

(B) Whether or not there were separate Probate Court proceedings determining incompetence and appointing a guardian.

(C) An unequivocal statement in writing from the treating physician stating that the parent understands his rights and the nature, purpose and effect of what he is doing, and has the mental capacity to sign a binding consent. The consent must be signed within 30 days after the date of the examination upon which the statement is based.

(2) At the time of taking the consent, the adoption worker must agree on the basis of the worker's own observations that the parent understands the nature and effect of signing the consent and wants to complete the adoption plan. The worker's observations must be part of the case record.

(b) If the parent has a history of mental illness or mental deficiency but is discharged or no longer under psychiatric care, the discharge or termination of treatment shall be verified, before the consent is signed. At the time of taking the consent, the adoption worker must agree on the basis of the worker's own observations that the parent understands the nature and effect of signing the consent and wants to complete the adoption plan. The worker's observations must be part of the case record.

(c) A copy of the written statements by the treating physician shall be attached to the consent when it is filed with the court report and any other pertinent information shall be included in the report.

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**30719. CONSENT NOT POSSIBLE BY SOME PARENTS WITH HISTORY OF MENTAL ILLNESS OR MENTAL DEFICIENCY.**

(a) Consent shall not be accepted from a parent who is a patient in or on leave from State hospital or under private psychiatric care, when the treating physician refuses to state in writing that the parent is competent.

(b) The parent who has been judicially determined to be incompetent under Probate Code Sections 1460-1462 is unable to sign a valid consent, and consent shall not be accepted as long as the decree remains in force.

(c) In cases where a parent is not competent to sign a consent, the agency shall explore the possibility of legal action to free the child from parental custody and control under Civil Code Section 232 (f).

**30721. CONTENT OF CONSENT.** The full names of the adopting parents shall appear on the consent at the time the parent signs the form. The agency representative shall not cover the names.

The consent signed by a natural parent to adoption of the child by a married couple does not support, and shall not be used in completing, the adoption by one of them alone, except in cases in which the natural parent expressly agrees to this modification.

**30723. CORRECTIONS OR ALTERATIONS ON CONSENT.** The signed consent shall not be corrected nor altered unless the corrections or alterations are accepted and initialed by the parent signing the document and initialed by the worker who witnessed the signature.

Article 4. The Court Report

**30725. FILING.** The court report on an adoption petition shall be filed by the due date.

**30727. CONTENT.** The court report shall contain a summary of the pertinent facts disclosed by the study, an evaluation of these, and a recommendation as to the granting of the petition. The information which is included in the report shall be current and shall be substantiated in the case record.

**30729. SUPPLEMENTAL REPORTS.** Supplemental reports shall be filed as necessary.

**30731. REPORTING TO COURT ON SERIOUS QUESTIONS.** When it has been determined that there is a serious question that may preclude completion of the adoption because (1) petitioners are not suitable, or (2) the child is not receiving proper care, or (3) consent may not be available, a report to the court shall be filed immediately



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## Article 5. Court Proceedings and Completion of Adoption

**30733. SETTING THE CASE FOR HEARING.** The agency is responsible for setting the case for hearing whenever it is necessary to carry out the recommended plan for the child:

- (1) Following a recommendation of a denial of the petition;
- (2) When petitioners are seeking, or have secured a dismissal of the petition.

### **30735. CERTIFICATE OF ADOPTION.**

**A. Responsibility for Preparing Certificate.** Whenever a recommendation of approval is made, the agency shall prepare the Certificate of Adoption and shall transmit it with the court report to the county clerk.

**B. Birth Certificates when a Parent Dies before Adoption Completed.** If both adopting parents were living at the time of the initial placement, but one parent dies before the adoption is completed, the agency shall tell the adopting parent that the law:

1. Permits showing both names on the Adoption Certificate if the Order of the Court granting the adoption directs that the name of both parents be included.
2. Provides that the inclusion of the name of a deceased person on the adoption Birth Certificate does not:
  - a. Affect any matter of testate or intestate succession;
  - b. Constitute competent evidence of any issue of relationship between the adopted child and the deceased person in any procedure or action.
3. Permits retroactive application of this procedure under the same circumstances if the adopting parent initiates an action in the Superior Court of the county in which the petitioner resides and the court orders that the amended birth record be amended again to include the deceased parent's name. In this case a fee of \$5 is required for the preparation of the amended record if a prior adoption certificate has been issued.

## Article 6. Case Files, Records and Reports

**30737. CASE RECORDS CONFIDENTIAL.** The confidentiality of case records shall be maintained. Information from case records can be released only to those agencies specified in the law, parties to the adoption or their legal counsel, or persons authorized to receive it.

Records shall not be produced in court on request of any of the parties except on subpoena.

Records shall be made available to inspection by grand juries only on order of the court. (See Sec. 30738.)

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**Subchapter 4.. Licensure Application Requirements**

**Article 1. Licensing**

**30739. PLACEMENT OF CHILDREN—ACTIONS REQUIRING A LICENSE FROM SDSW.** A license is required for the placement of children for temporary care. (See Section 16000(b) W&IC)

**Exceptions:**

1. A county welfare department or a county probation department may place children for temporary care in a facility which is licensed, pursuant to Section 16000(a) W&IC, to receive and care for children.

2. A county probation department may pursuant to Section 727(c) W&IC place children for temporary care in a family home which is not licensed under Section 16000(a) W&IC provided:

a. The home is certified by the probation department as meeting minimum standards of the SDSW for licensure, and

b. The foster parents have made application for a license and licensure of said home pursuant to Section 16000(a) W&IC is pending.

**30741. PLACEMENT OF CHILDREN IN UNLICENSED FACILITIES BY A PUBLIC AGENCY—LICENSE REQUIRED.** Any county agency, designated by the county board of supervisors to perform the service may place children for temporary care in family home which are not licensed pursuant to Section 16000(a) W&IC provided both of the following conditions are met:

a. The county agency is licensed as a county child placing agency by the SDSW and is authorized to issue Certificates of Approval to homes selected for its exclusive use.

b. The homes in which children are placed by the county agency hold certificates of approval issued by that agency.

**30743. AGENCY ELIGIBILITY FOR LICENSE.** To be eligible for license, a child-placing agency must conform to all applicable rules and regulations of the SSWB.

The agency must be able to provide, or there must be resources available in the community to provide, for support of children accepted for care; for medical and psychiatric services for children as needed; and an adequate number of foster homes for children.

The agency must be coordinated with other community welfare services.

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**30743. AGENCY ELIGIBILITY FOR LICENSE (Continued).**

**A. County Child-placing Agencies**

The agency must be designated by the county board of supervisors as a county agency through which child-placing services will be offered.

**B. Private Child-Placing Agencies**

The agency must be organized and operated on a nonprofit philanthropic basis.

**30745. LICENSING PROCEDURE — APPLICATION FORMS.**

Application for a license as a child-placing agency must be filed in duplicate with the SDSW on forms prescribed by the department.

**30747. THE APPLICATION.**

A. Application from a public agency must be signed by the chairman of the board of supervisors, and a copy of the resolution of the motion of the board authorizing the chairman to sign the application must be attached.

B. Application from a private agency must be signed by the presiding officer of the board of directors and the executive officer of the agency, if selected, or a second officer of the board of directors if the executive officer has not yet been appointed. A copy of the board authorization to its representative to apply for such a license must accompany it.

**C. Application must be accompanied by:**

1. A written plan of operation in duplicate, covering the following:

(a) Statement of program goals and description of services.

(b) Administrative organization — narrative and chart of total agency.

(c) Personnel — number, qualifications, and duties.

(d) Physical facilities and office arrangement — diagrams.

(e) Budget and financing, by item.

2. Plans for coordination with other community welfare services. For a public agency, such plans shall include any agreement between the probation department and the county welfare department **as to their respective functions and responsibilities.**

3. List of membership of governing board and any advisory committee showing lengths of term and interest or qualifications on which selection was based and indicating which persons serve as officers and in which position.

4. For the private agency, a copy of its constitution and by-laws and, if it is incorporated, a copy of the Articles of Incorporation.

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**30749. LICENSING STUDY.** On receipt of an application, the SDSW will review the attached plan of operation, identify any deviations from the regulations in this Chapter, and when indicated, discuss with the Board and/or executive, the agency's plans to achieve full conformity with regulations.

A license will be issued whenever it is found that all requirements are met. A license may also be issued when there is substantial conformity with regulations if the deviations are minor, and/or the agency agrees to correct them at the earliest date possible.

**30751. TERMS OF LICENSE.** Placement services which a licensee may render are limited to those specified by the license.

If the SDSW authorizes the agency to issue Certificates of Approval to foster homes selected for its exclusive use, this will be shown on the license. See S. 17. The license of an agency not authorized to issue such Certificates will specify that children are to be placed in licensed homes only.

**30753. AMENDED LICENSE.** Proposed major changes in program or organization shall be submitted to the SDSW for review and possible issuance of amended license.

**30755. RENEWAL OF LICENSE.** The SDSW will make a licensing study of the agency, and evaluate the child care program of the preceding year before issuing a renewal license.

Any necessary denial of a renewal application or modification of the terms of license will be discussed in advance. Unless the renewal application is withdrawn, this discussion will be confirmed by a registered letter. This letter will (1) state that the application is denied; (2) list the reasons for denial; (3) review the right of appeal and the time limit for filing an appeal (30 days). If an appeal is filed, further proceedings will be conducted in accordance with the Administrative Procedure Act.

**30757. TERMINATION OF LICENSE.** License may be revoked by the SDSW for failure to meet the standards and regulations as defined in this Chapter.

No license will be revoked until the licensee has had a reasonable opportunity to achieve conformity with the regulations in this Chapter.

A license will be revoked by sending a registered letter bearing the designation "Notice of Revocation" to the licensee. This letter will (1) state the license is being revoked; (2) list the specific acts or conditions which constitute lack of conformity with regulations and the dates or time span involved; (3) establish a date for termination of operation and (4) explain the right to file an appeal from this action within 30 days.

If an appeal is filed, further proceedings will be conducted in accordance with the Administrative Procedure Act.

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**FILING ADMINISTRATIVE REGULATIONS**  
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(Pursuant to Government Code Section 11380.1)

Subchapter 5. Administration and Management

Article 1. Organization and Administration

**30759. ADMINISTRATIVE RESPONSIBILITY — PUBLIC AND PRIVATE AGENCIES.** Legal responsibility for a child-placing agency or service shall be clearly defined and administrative responsibility specifically placed in accordance with the regulations of the State Social Welfare Board.

**30761. ORGANIZATION—PRIVATE AGENCIES.** The agency shall be organized and operated on a nonprofit and philanthropic basis. The organization shall be coordinated with the other social services in the community.

**30763. INCORPORATION—PRIVATE AGENCIES.** The Articles of Incorporation of an incorporated agency stating the purpose of the agency in broad terms shall be filed with the Secretary of State at Sacramento.

Copies of the Articles of Incorporation and amendments made thereto shall be filed with the State Department of Social Welfare.

**30765. CONSTITUTION AND BY-LAWS—PRIVATE AGENCIES.** Regardless of whether the agency is incorporated, it shall establish a constitution setting forth the purpose of the organization.

The by-laws shall set forth the functions of the organization and the means whereby the functions are to be carried out.

A copy of the constitution and by-laws shall be filed with the State Department of Social Welfare.

**30767. GOVERNING BOARD—PRIVATE AGENCIES.** The constitution shall provide for control by a responsible governing board.

**30769. BOARD MEMBERSHIP — PRIVATE AGENCIES.** Board members shall have an interest in child welfare, a concern for social conditions in the community, and sufficient time to discharge their obligations as board members. They shall also be persons representative of the community in which the agency operates.

The board shall include in its membership a variety of interests, talents, and professions to insure different points of view. Membership shall be so arranged that no single group or profession shall have a controlling vote.

Board members shall serve without compensation. No board member shall profit financially by reason of his membership nor be employed by the agency regularly either full time or part time.

**30771. ELECTION OF BOARD MEMBERS — PRIVATE AGENCIES.** Members shall be elected by the supporting membership or by a representative body for a definite term of office, with expiration of terms so arranged that a rotating board results.

Provision shall be made for the replacement of members who become inactive for a protracted period of time.

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**30773. BOARD MEETINGS—PRIVATE AGENCIES.** Minutes of the board meetings shall be kept.

**30775. DUTIES AND FUNCTIONS OF THE BOARD—PRIVATE AGENCIES.** The board shall formally adopt a written statement of the responsibilities to which the members agree. These shall include:

1. Responsibility to the community for adequate services to the children under care.
2. Interpretation of the service of the agency to the community, and of the community to the staff of the agency.
3. Establishment of the policies to be followed by the agency.
4. Exercise of trusteeship for property and investments.
5. Approval of the budget and responsibility for obtaining and receiving adequate funds.
6. Employment of a well-qualified executive for the agency, and delegation to that executive of responsibility for administration and employment of other staff members.
7. Maintenance of an informed, alert, and interested membership.
8. Maintenance of a full membership.

**30777. COMMITTEES OF THE BOARD—PRIVATE AGENCIES.** Provision shall be made for the appointment of standing committees and such temporary or special committees as are needed.

All committees shall entrust administrative details to the executive and work with the executive.

**30779. RELATIONSHIP BETWEEN BOARD AND EXECUTIVE—PRIVATE AGENCIES.** There shall be proper division of responsibilities between the board and executive to provide efficient administration.

The board shall delegate to the executive the responsibility for administration, but the board shall determine the major policies and the general plan of operation based upon its knowledge of case problems and community needs.

The general policy of the board shall be to include the executive at all regular meetings.

**30781. STATISTICAL REPORTS—PUBLIC AND PRIVATE AGENCIES.** Such monthly statistical reports shall be submitted as the State Department of Social Welfare requires.

Such other records and reports shall be maintained and submitted as required by the State Department of Social Welfare.

**30783. OTHER REQUIREMENTS—PUBLIC AND PRIVATE AGENCIES.** Agencies providing adoption services shall comply with California statutes governing adoption of children and with all applicable rules and regulations of the State Social Welfare Board.

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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Article 2. Finances

**30785. FUNDS—PUBLIC AND PRIVATE AGENCIES.** The agency shall be soundly financed and shall have sufficient funds to provide the services which it offers.

If budget limitations exist, the scope and size of the agency's services shall be curtailed to a point that will permit available funds to maintain an adequate quality of service.

**30787. FINANCIAL PROCEDURES — PUBLIC AND PRIVATE AGENCIES.** Policies and practices governing receipt and expenditures of money shall be in accord with sound budgeting, disbursement, and audit control procedures.

**30789. FINANCIAL RECORDS — PUBLIC AND PRIVATE AGENCIES.** Financial records shall be maintained of receipts, disbursements assets and liabilities.

Financial records shall be kept current, showing the nature and source of income and the nature of expenditures.

**30791. PAYMENT FOR CARE OR SERVICE—PUBLIC AND PRIVATE AGENCIES.** Any fees charged shall be clearly defined as such at time of application for service and shall be based upon the actual cost of service.

Article 3. Personnel

**30793. GENERAL REQUIREMENT—PUBLIC AND PRIVATE AGENCIES.** The number of staff shall be adequate for the scope of the agency's services.

**30795. QUALIFICATIONS—ALL PROFESSIONAL STAFF—LICENSED CHILD PLACING AGENCIES.** Staff members shall be qualified for their responsibilities by education, training, experience, personality and health.

**30797. EXECUTIVE—QUALIFICATIONS—PRIVATE AGENCIES.** The executive shall have professional training in the field of child welfare, or have demonstrated unusual ability and leadership through experience as an executive in the field of child welfare.

When the organization of the agency may necessitate, the executive shall have such other qualifications as are required for the additional duties he may have to assume, such as supervision of casework.

**30799. EXECUTIVE — DUTIES — PUBLIC AND PRIVATE AGENCIES.**

**A. Private Agencies**

The duties of the executive shall include the following:

1. Responsibility for appointing and dismissing staff, and for working closely with the personnel committee of the board.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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30799. EXECUTIVE - DUTIES - PUBLIC AND PRIVATE  
AGENCIES (Continued).

2. Responsibility for attending all regular board meetings and committee meetings of the board, making reports concerning agency activities, and interpreting recognized standards of child care to the board.

3. Responsibility for holding regular staff meetings to discuss plans and policies.

4. Responsibility for organizing and carrying out a program of staff development for all staff members, and for arranging for attendance of staff at social work conferences and other meetings which assist in professional growth and effectiveness.

5. Responsibility for carrying out a child care program in conformity with recognized standards of modern child care.

6. Responsibility for leadership and stimulation in community planning for child welfare.

**B. Public Agencies**

The duties of the executive of a public agency shall include all responsibilities listed for the executive of a private agency, except those related to the board and its committees.

**30801. SUPERVISORS.**

**A. Responsibility.** The supervisor is responsible to the executive or his delegated assistant for the performance of designated staff.

**B. Qualification Requirements** **otherwise**

1. **Public Agencies.** Except as provided **otherwise**  
supervisors shall be qualified for their responsibilities by education and experience, the minimum of which shall be either

(a) possession of a master's degree from an accredited graduate school of social work (Those candidates who completed all academic requirements for the degree except the thesis requirement prior to July 1, 1956, will be considered as possessing the equivalent of a master's degree), and three years of full-time social work employment; or

(b) one year of experience as a Social Service Practitioner II or two years of experience as a Social Services Practitioner I, or their equivalent, in a California county welfare department.

2. **Private Agencies.** Except as provided **otherwise**  
supervisors shall be qualified for their responsibilities by education and experience, the minimum of which shall be:

Possession of a master's degree from an accredited graduate school of social work (Those candidates who successfully completed all academic requirements for the master's degree except the thesis requirement prior to July 1, 1956, will be considered as possessing the equivalent of a master's degree), and either

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30801. SUPERVISORS (Continued).**

- (a) three years of full-time social work employment in the field of family or child welfare; or
- (b) two years of full-time social work employment in a licensed child placing agency.

**30803. SOCIAL WORKERS—PUBLIC AND PRIVATE AGENCIES.**

**A. Responsibility.** Social workers shall provide the services involved in fulfilling the agency's responsibility for providing the social services in its child placing programs. otherwise

**B. Qualification Requirements—Social Worker.** Except as provided, the minimum educational requirement for social worker shall be:

Possession of a master's degree from an accredited graduate school of social work (Those candidates who successfully completed all academic requirements for the master's degree except the thesis requirement prior to July 1, 1956, will be considered as possessing the equivalent of a master's degree).

**30805. IMPLEMENTATION OF QUALIFICATION REQUIREMENTS—SUPERVISORS AND SOCIAL WORKERS—PUBLIC AND PRIVATE AGENCIES.**

**A. Staff Employed after January 1, 1970.** These sections shall apply to supervisors and social workers employed after January 1, 1970.

**B. Supervisors.** Supervisors employed on or after January 1, 1970, must meet the qualification requirements.

Supervision of social workers may be provided by a first-level supervisor, or higher, including the agency executive. In any event, the designated supervisor must meet requirements.

**C. Baseline Standard for Progressive Implementation of Qualification Requirements for Social Workers**

**1. Agencies Licensed On and After January 1, 1970.** For agencies initially licensed on or after January 1, 1970, the baseline, or minimum staffing requirement for progressive implementation of qualification requirements:

is that there be employed at least one social worker who meets these qualifications. There shall be no waiver of this requirement as a condition for initial issuance of a license. The baseline standard as a condition for renewal of a license shall be the same as that set forth in paragraph C, 2, below.

**2. Agencies Licensed Prior to January 1, 1970.** For agencies licensed prior to January 1, 1970, the minimum per-

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**30805. IMPLEMENTATION OF QUALIFICATION REQUIREMENTS -  
SUPERVISORS AND SOCIAL WORKERS - PUBLIC AND PRIVATE  
AGENCIES (Continued).**

percentage of social work staff meeting the requirements of Section 30803 shall not be less than 75% of the proportion of fully qualified social work staff to total social work staff on January 1, 1970. Agencies which had no qualified social work staff prior to January 1, 1970, shall have not less than one fully qualified social worker by January 1, 1970.

The department will consider requests by agencies for additional time within which to meet this minimum standard, and upon approval of the request a reasonable period of time for this purpose will be granted.

Each agency shall establish and keep available the above mentioned January 1, 1970, baseline.

**D. Recruitment of New Staff by Progressive Implementation.**

The agency shall make every reasonable effort to increase the percentage of fully qualified social workers above its baseline in the recruitment of new staff.

**E. Differential Use of Social Workers.** An agency may request SDSW approval of a plan for differential use of social work staff who do not meet the graduate education requirement or the alternate requirements set forth in paragraph G of this section. If the agency obtains SDSW approval of such a plan, both the agency's baseline standard and the progressive implementation requirement shall be modified as appropriate.

**F. Waiver of Qualifications and Progressive Implementation Requirements.** Agencies may request waivers of the graduate education requirement, and the experience requirement in paragraph F of this section if either of the following circumstances exists:

1. The agency is unable to implement progressively the qualification requirement; or
  2. Is unable to maintain its baseline standard; and essential child placing services would otherwise be jeopardized.
- Such waiver shall be granted in whole or in part if the agency demonstrates that:

(a) It has made a substantial and consistent effort to recruit and retain an increasing percentage of social workers; and

(b) A selective certification or hiring plan is in effect, whereby social workers possessing the qualifications shall be employed first.

Those possessing the qualifications set forth in paragraph G of this section may thereafter be otherwise selectively employed.

**G. Alternate Requirements — To be Used if Waiver Granted.** Upon approval of waiver, for public or private agencies, and except as

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**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30805. IMPLEMENTATION OF QUALIFICATION REQUIREMENTS -  
 SUPERVISORS AND SOCIAL WORKERS - PUBLIC AND PRIVATE  
 AGENCIES (Continued).**

provided in this section, the State Department of Social Welfare shall authorize use of one or more of the optional qualification requirements which appear below, in the order given:

**Option 1**

**(a) Public Agencies**

Graduation from college, and either

(1) one year of experience as a Social Service Worker II, or its equivalent, in a California county welfare department; or

(2) two years of social work experience in a public welfare agency (One year of graduate education which was completed as part of the candidacy for a master's degree in social work may be substituted for one year of the required experience).

**(b) Private Agencies**

Graduation from college, and

two years of social work experience in a social service agency (One year of graduate education in social work, or completion of an undergraduate major in social welfare may be substituted for one year of the required experience. Completion of an SDSW approved in-service training course, or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience. In all cases, however, a minimum of one year of experience shall be required under these substitution patterns).

**Option 2**

**(a) Public Agencies**

Graduation from college with a major in social welfare; or

graduation from college, with a major other than social welfare, and either

(1) one year of experience in a public or private agency performing duties comparable to a Social Service Worker I (One year of graduate study which was completed as part of the candidacy for a master's degree in social work may be substituted for the required experience); or

(2) one year of experience as a Social Service Worker I, or its equivalent, in a California county welfare department (Completion of an SDSW approved in-service training course or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience).

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30805. IMPLEMENTATIONS OF QUALIFICATION REQUIREMENTS -  
SUPERVISORS AND SOCIAL WORKERS - PUBLIC AND PRIVATE  
AGENCIES (Continued).**

**(b) Private Agencies**

Successful completion of one year of graduate education in social work; or  
graduation from college, and  
one year of experience in the field of family or child welfare (Completion of an undergraduate major in social welfare may be substituted for the required experience. Completion of an SDSW approved in-service training course, or completion of an undergraduate major in a field closely related to social welfare may be substituted for six months of the required experience).

**Option 3**

**Public and Private**

Graduation from college. This option will only be authorized if the agency has approved in-service training and staff development programs for staff recruited at this level.

**30807. CLERICAL STAFF—PUBLIC AND PRIVATE AGEN-  
CIES.** An adequate clerical staff shall be maintained.

**30809. PERSONNEL PRACTICES—PUBLIC AND PRIVATE  
AGENCIES.** Employment and tenure of position shall be based solely upon competence.

Personnel policies shall be developed by the agency.

Personnel policies, salaries, and working conditions shall be such as to attract and hold competent, well-qualified staff and to stimulate their professional growth.

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WITH THE SECRETARY OF STATE**

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Subchapter 6. Care and Services

Article 1. Services

**30811. GENERAL REQUIREMENTS.** The processes of intake, placement, supervision and termination of care shall be in accord with present-day accepted standards of child care and social casework.

Services provided shall give evidence of adherence to the following principles of child care:

1. A child has a basic right to his own home and family, the natural setting in which the child's social and personality growth normally occur.

2. Primary emphasis shall be upon skillful and understanding professional service to parents to help them meet the child's needs in his own home whenever possible.

3. The type of service provided shall be based upon consideration of the child's individual needs, his family situation and the wishes of and participation of his parents.

4. The foster home care given must provide opportunities for maximum development of the child's native capacities and must further his development into an adequate adult personality.

Every child placing agency shall state its intake policies in writing and make such written policies available to the public.

**30813. NONDISCRIMINATION—ACCEPTANCE FOR SERVICE.** The written intake policy shall include a statement that the child placing agency is operated on a nondiscriminatory basis, according equal treatment and access to services without regard to race, color, religion, national origin, or ancestry. An otherwise eligible child may not be excluded on the basis of these characteristics.

A child placing agency established to serve an identified group may serve this group, but shall not discriminate on the basis of race, color, religion, national origin, or ancestry.

A religious group may elect to serve children of a particular religious faith, but may not discriminate within the group on the basis of race, color, national origin, or ancestry.

**30815. INITIAL STUDY.** The decision to accept a case for service shall be based upon (1) clearly defined but flexible agency policy, and (2) a complete social study of the child's total situation to determine what will best serve his ultimate welfare.

The social study shall be recorded.

**30817. PLACEMENT AND SUPERVISION.**

1. The religious preference of parents shall be respected insofar as possible in deciding among the available homes; the home best suited to the child. When an alternate home is used, steps shall be taken to ensure that the foster parents

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30817. PLACEMENT SUPERVISION (Continued).**

arrange for the child's religious observance in accordance with the parent's preference.

2. Children of the same family shall be kept together whenever possible unless it has been determined that this is not beneficial.

3. The selection of a foster family home or of group care in an institution for a particular child shall be based upon consideration of the individual child's total needs (health, educational, religious, recreational, social and emotional) and how well the particular foster family or institutional program can meet the child's needs and potentialities. This includes the ability of the foster family to accept and respect children of any race, creed, color, religion, or national ancestry.

4. Every effort shall be made to strengthen family relationships and to help parents make a responsible plan for the permanent care of their children, unless the child has been permanently removed from the custody of his parents, or the plan is placement in an adoptive home.

5. The agency shall make certain that adequate and appropriate clothing, recreational allowances, and continuing medical and dental care are provided for each child.

6. The agency shall maintain adequate supervision through sufficiently frequent visits to the child, foster family (or institution) and own family. The frequency of such visits shall be determined by the circumstances of each case and the discretion of the agency.

The caseload of a worker giving full time to the supervision of children in foster homes shall not exceed fifty children. If the worker carries other responsibilities such as recruitment or home finding, intake, or work with children with serious emotional disturbances, or work with children in their own families, or the geographical area to be covered is widespread, the caseload shall be proportionately reduced.

7. Psychological study, direct treatment by a psychiatrist, or psychiatric consultation to aid the caseworker in treatment shall be provided by the agency for those children accepted for care who require such specialized professional services.

8. Foster homes used for children under 18 years of age shall conform to the standards for Boarding Homes for Children as developed by the State Department of Social Welfare and set forth in Chapter 4.

**30819. TERMINATION OF FOSTER CARE.** Termination of agency care shall be determined by casework study and planning.

Continuing study of the home and planning with the family and child shall precede the return of the child to his parents or a relative.

Arrangements shall be made for adequate follow up service and supervision according to the child's needs.

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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

## Article 2. Case Records

**30821. GENERAL REQUIREMENTS.** The agency shall maintain adequate case records for each child and family.

Separate records shall be maintained for each foster home studied and used by the agency.

Current administrative records shall be maintained by the agency in such a form as to provide an index to all cases, including location of all children under care and of all foster homes in use.

**30823. CONTENT OF CHILD'S RECORD.** Each record shall include a face sheet, report of original study, and progress reports of the child under care and work with the child's family.

The record shall also contain either the child's medical record or a listing of the dates of physical examinations, medical treatment, hospitalization, and illnesses, with a brief notation for each entry showing any significant findings at the time of examination or treatment. The medical record, whether maintained in the child's record or elsewhere, shall include a summary of the child's previous health history and reports on all physical examinations, tests, and treatment.

## Article 3. Homes in Exclusive Use by Licensed Child Placing Agencies

**30825. GENERAL REQUIREMENTS.** The work of a child placing agency in selecting foster homes for its exclusive use and in placing children in such homes is subject to review by the SDSW, which may terminate its approval of the agency's selection and use of homes exempt from license.

The exemption from license of homes in exclusive use shall be limited to

Boarding Homes for Children  
Day Care Homes                      and                      Parent-  
Child—Boarding Homes.

The above exemption shall not include boarding homes over which the State Department of Social Welfare has no jurisdiction.

**30827. IDENTIFICATION OF HOMES IN EXCLUSIVE USE.** Each unlicensed foster home in the exclusive use of a licensed child placing agency shall be provided with a Certificate of Approval (Form BHC 30.2, Revised), properly completed and signed by the executive or other representative of the agency.

A copy of the Certificate of Approval shall be kept in each foster family case record.

**30829. NOTIFICATION TO ACCREDITED LICENSING AGENCY.** A licensed child placing agency shall notify the accredited

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WITH THE SECRETARY OF STATE**

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**30829. NOTIFICATION TO ACCREDITED LICENSING AGENCY**  
(Continued).

(public) agency of the county in which the home is located of each home approved for exclusive use, each home rejected after study, and each home of which exclusive use is being terminated.

Notification shall be on Form BHC 30.3 by the licensed child placing agency within thirty days after action to approve, reject, or terminate the use of the home.

A licensed child placing agency shall also send immediate notification of a desired change to the public licensing agency when (1) a home approved for exclusive use, wishes to become a licensed home, or (2) a licensed home wishes to become a home approved for the exclusive use of the agency and the agency plans to issue a Certificate of Approval to this home. Form BHC 30.3 shall be used for this purpose.

**30831. CONFIDENTIAL NATURE OF RECORDS AND INFORMATION.** Sec. 30191 shall be applicable to the interchange of information concerning foster homes in exclusive use between accredited agencies and licensed child placing agencies.

**30833. STANDARDS OF FOSTER CARE.** The Standards for Boarding Homes for Children, shall be the basis for the approval of homes for exclusive use.

**30835. COMPLIANCE WITH STATE LAWS AND REGULATIONS.** Conformity with state laws and regulations regarding criminal record clearance, housing, sanitation and fire safety shall be determined in accordance with *Boarding Home Regulations*.

The responsibility of foster parents to comply with any existing local ordinances shall be called to their attention.

**30837. ADHERENCE TO LIMITATIONS OF CERTIFICATE OF APPROVAL.** The foster home approved for the exclusive use of a licensed child placing agency shall accept only those children placed by the agency which approved the home.

**30839. HEALTH AND MEDICAL CARE.** The securing of consent for medical care from parents shall be the responsibility of the child placing agency rather than the foster parent.

**30841. REGISTER.** The maintenance of the information required in Section 16011 of the Welfare and Institutions Code shall be the responsibility of the child placing agency.

**30843. CHANGE OF ADDRESS OR MANAGEMENT.** A change in the address or management of the foster home shall nullify approval of the home for exclusive use. Another social study at the new address shall be made before approval is again given by the child placing agency. Similarly, approval of a home at a given address is not transferable to a new occupant of those premises.

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**30845. EMERGENCY CONDITIONS—CONTINUATION OF LICENSE.** The licensed child placing agency shall consent to a change of location and continuation under the existing permit of any approved children's boarding home for a reasonable period of time when the change is required because of the destruction of the premises or similar emergency conditions, so long as the new location or place of performance substantially conforms to standards of fire safety, sanitation, health, hygiene and other conditions.

**30847. FOSTER HOME STUDY AND CASE RECORD.** Each foster home study shall include all steps necessary to determine whether applicable standards are or are not met.

All members of the potential foster family shall be seen. There shall be as many office interviews and home visits as necessary to determine whether the agency can use the home and for what type of child.

The foster home study shall be fully recorded.

A separate case record shall be maintained for each foster home. In addition to the foster home study (including contacts with references), the record shall contain:

1. A face sheet or application form
2. All pertinent correspondence
3. Medical clearances, any necessary annual fire clearance, and/or any Social Service Exchange clearances
4. A copy of the notice to the public licensing agency of action taken
5. A copy of the Certificate of Approval
6. A record of each child placed in the home and the dates the child received care.

A periodic recorded evaluation of the continuing service rendered by each home shall be made not less often than annually, and preferably at least quarterly.

An evaluation shall be made each time a child leaves the home. All changes in the foster family situation, such as family composition, health, employment, and housing shall also be recorded.

**30849. MASTER FILE.** The child placing agency shall maintain a master file of all foster homes studied and/or used by the agency (including any licensed homes).

**30851. CASE PROCESSING CONTROLS.** Such card files and controls as may be necessary shall be maintained in connection with case processing such as:

1. Pending applications
2. Periodic evaluations

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**30851. CASE PROCESSING CONTROLS (Continued).**

3. Annual fire clearances (when required)
4. Homes in use
5. Homes studied and available for use

**30853. USE OF LICENSED HOMES AND HOMES HOLDING A CERTIFICATE OF APPROVAL.** A licensed child placing agency may use a licensed home. When it does, it shall notify the public licensing agency of such use.

A home approved for the exclusive use of a licensed child placing agency shall not be used by another agency.

The individual needs of each child placed, as well as the physical accommodations of the home and the ability of the foster parents, shall determine the number of children who may be placed.

**Article 4. Health Protection**

**30855. GENERAL REQUIREMENT.** The agency shall provide adequate preventive and remedial medical care through a qualified physician, preferably a pediatrician, or through a medical clinic organized to provide the necessary medical service.

The medical care provided shall include:

1. Complete physical examination, including examination of eyes and ears (prior to placement whenever possible).
2. Prompt treatment of remediable physical conditions.
3. Necessary laboratory tests and inoculations.
4. Immunization of children over six months against diphtheria and vaccination against immunization of children under six years against whooping cough.
5. Provision for tuberculin test or chest X-ray for each child; provision for nose and throat culture, vaginal smear, and Wassermann when indicated.
6. For infants continuing medical supervision; for older children physical examinations at least annually or oftener as recommended by the physician or as the child's development and condition indicate.
7. Care in case of illness or accident, including provision for medical care and hospitalization as required.
8. Dental examinations semi-annually followed by necessary treatment; arrangements for orthodontic care for children requiring this care.
9. Continuing observation of the child's developmental progress and discussion with the physician of any deviations from satisfactory conditions.
10. Competent psychological and psychiatric treatment or consultation for those children who require such service.
11. Health instruction, adequate nutrition, and training in sound physical and mental health habits. This training shall be shared by parents, foster parents, caseworker, and physician.

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(Pursuant to Government Code Section 11380.1)

CHAPTER 4. MINIMUM STANDARDS FOR FACILITIES FOR CHILDREN

SUBCHAPTER I. BOARDING HOMES FOR CHILDREN, DAY CARE HOMES FOR CHILDREN, AND  
PARENT-CHILD BOARDING HOMES.

Article 1. Administration

31001. **FAMILY INCOME.** In 24-hour care, the income of the family from employment or other resources, shall be reasonably steady and sufficient to maintain an adequate standard of living for the family.

Article 2. Personnel

31007. **ADDITIONAL HELP— DAY CARE HOMES.**  
If one or more children in the home require more than usual care because of emotional or other disturbances, there shall be at least two adults providing care for the children in the home on a regular basis.

31009. **EMPLOYMENT OF FOSTER MOTHER.** The foster mother shall not accept employment outside her own home which would affect adversely the care given a foster child.

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(Pursuant to Government Code Section 11380.1)

31111. **FAMILY COMPOSITION.** The presence of both a foster father and foster mother are considered necessary. This requirement may be waived under certain circumstances by the licensing agency.

**Article 3. Reception.**

31113. **NONDISCRIMINATION**

1. Each special home whether for 24-hour care or day care must establish admission criteria designed to guide in the selection of children who can benefit most from the services it has to offer, but admission policies and services shall be non-discriminatory. Such criteria shall not include factors of race, color, religion, national origin or ancestry. No child otherwise eligible shall be excluded or denied admission on the basis of such factors.

2. Each special home shall state its admission criteria in writing and make such criteria available to the public. Admission policies shall contain a notice to all applicants that the home operates on an integrated basis without discrimination.

31115. **FOSTER HOMES WITH EXPANDED SUMMER PROGRAM.**

1. Planned activities shall be provided for the children during the summer and the foster mother shall have adequate assistance for care of the children and housekeeping activities.

2. Boating and swimming activities must be supervised by a person trained in American Red Cross life saving course or the equivalent.

3. An expended summer program shall not be allowed to affect adversely the adequacy of care for children accepted for year round care.

31117. **AGE AND SEX.** The age and sex of the children the foster parents are permitted to accept is determined by the type of sleeping quarters available, capabilities of foster parents and other conditions affecting the safety and welfare of the children.

31119. **MENTALLY RETARDED CHILDREN.** Homes shall not accept children who are mentally retarded unless within the discretion of licensing agency the care of a particular child is permitted. Such permission will be given only when all of the following conditions are met:

1. The home can meet the individual needs of this child.

2. His presence will have no adverse effect on any other children in the home.

3. There is no substantial difference between the kind and amount of care needed by the mentally retarded child, and that needed by children of normal mentality.

4. The foster parents intend to care for children of normal mentality when this child is removed from their home.

Homes which plan to care for mentally retarded children only are subject to license by the State Department of Mental Hygiene.

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31121. **LIMITATIONS ON TYPE OF CARE.** Foster parents shall provide only one type of care; that is, either 24-hour care, day care or parent-child care. There must not be care of aged persons, adult roomers or boarders, parents in residence with their children, in addition to the type of child care specified by the license. Exceptions to this rule will be made by the licensing agency only in unusual circumstances.

31127. **LIMITATION ON NUMBER OF INFANTS.** The number of infants under 2 years of age, including infants of the foster family must be strictly limited.

1. More than 2 infants or other children in addition to the infants, shall be permitted only if there is regular and adequate assistance with either the care of the children or with household duties.

2. No more than 4 infants shall be permitted except under unusual circumstances and with special approval of the licensing agency.

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**Article 4. Care**

**31129. CARE AND GUIDANCE OF CHILDREN.** Foster families shall provide good physical care and help each child to grow and develop physically, mentally, emotionally, and spiritually at his own pace.

**31131. SUPERVISION OF CHILDREN.**

1. Foster parents must provide for adequate supervision of the children during their absence.

2. When there is an unusual absence, the foster mother shall notify immediately and if possible in advance, the agency or person responsible for the placement of the child or the licensing agency, if the person responsible cannot be located.

3. During the night and during rest periods, children must be under close supervision and within call of an adult.

**31133. DISCIPLINE OF CHILDREN.** Discipline must be fair, reasonable and consistent and must be related to the offense.

1. Corporal punishment is not permitted, even though the child's parents may have given consent.

2. Punishment connected with functions of living such as sleeping or eating shall not be used.

**31135. HOME DUTIES OF CHILDREN.** Children shall be required to perform only simple home duties which do not interfere with school, health, or necessary recreation.

**31137. RELIGIOUS TRAINING OF CHILDREN.**

1. The foster parents must respect the child's religious beliefs and observe religious holidays, diet, etc.

2. Each child shall be given opportunity to attend religious services and activities of his faith or that of his parents. If this is not possible, the religious training offered must be approved by the child's parents or by the person responsible for placement.

**31139. DAILY ACTIVITIES—FAMILY DAY CARE HOMES.** In the family day care home the daily activities for each child shall be designed to develop a positive concept of self and motivation to enhance his social, cognitive and communication skills.

1. Each home shall have toys, games, equipment and material, books, etc. for educational development and creative expression appropriate to the particular age level of the children.

**31141. SOCIAL AND RECREATIONAL ACTIVITIES OF CHILDREN.** The foster parents shall make it possible for each child to participate in the social and recreational life of the community.

**31143. FOOD AND HEALTH.** Meals must be served regularly and the diet shall be nutritionally well balanced, adequate and suitable for the age of each child. Formulae for infants must be prescribed by a physician and followed carefully.

**31145. MILK.** Milk shall be from a source tested and found free from tuberculosis and undulant fever and shall be home pasteurized, if other than commercially pasturized milk is used.

**31147. HOME CANNED FOODS.** All home canned foods shall be processed in accordance with acceptable procedures for canning of food.

**31149. HOME LIFE.** The home life of the foster family shall be sufficiently harmonious to provide emotional security for foster children.

Each member of the foster family shall be willing to accept the foster child as a member of the family group.

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(Pursuant to Government Code Section 11380.1)

**Article 5. Safety**

**A. Life Safety**

**31151. SWIMMING POOL SAFETY.** (a) Children shall be protected from hazards of home swimming pools or similar bodies of water by:

- (1) Appropriate supervision.
- (2) Instruction in water safety.
- (3) Installation and maintenance of skid-proof decking.
- (4) Maintenance of proper sanitation and health standards.

(5) If children of preschool age are cared for: installation-maintenance of substantial fencing, in the immediate pool area to prevent admittance when not in use, so constructed that it does not obscure the pool from view, cannot be easily climbed by children, at least four feet in height with self-locking gate; or appropriate pool covering.

(b) Excluded from the above requirements in this section are homes licensed exclusively for temporary care of infants and caring only for children below the age of self-locomotion, such as pre-adoption temporary homes for small infants.

**31153. SAFETY REQUIREMENTS.** Each home must be free from life or health hazards.

1. Fireplaces and open-faced heaters shall be protected by screens, and gas heaters must be vented and installed with permanent connections and protectors.
2. Children shall be protected from home accidents which might result from unguarded stairs, fish ponds, etc.
3. Pads shall be placed under small rugs to prevent slipping.
4. Electrical appliances must be kept in good order.
5. Disinfectants, cleaning solution and poisons shall be stored where children do not have access to them.
6. Brooms, mops and boxes for children's toys must be adequately stored when not in use.

**31155. DISASTER AND MASS CASUALTY PLAN.** All licensed special children's boarding homes shall have a written disaster and mass casualty plan of action, in the event of a disaster occurring in the community, or of state of extreme emergency. The plan shall include:

1. Designation of adult responsibilities and assignments.
2. Plan for evacuation or relocation of children including:
  - a. means of egress
  - b. transportation of children, when necessary
  - c. supervision of children after evacuation or relocation
  - d. means for contacting local service agencies, i.e., fire department, civil defense, and other disaster authorities of local government.
3. Plan for reception of nonresident children dislocated by disaster and emergencies occurring outside the facility.

All members of the household shall be instructed in their duties. Instruction shall include practice sessions at regular intervals. New members of the household shall be informed immediately of their duties, as required in this plan.

The disaster plan shall be conspicuously posted, and kept up to date, and shall be subject to annual review by the appropriate fire safety and civil defense officials.

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(Pursuant to Government Code Section 11380.1)

31169. **HOUSEKEEPING STANDARDS.** Homes shall be clean, reasonably orderly and shall have a homelike atmosphere.

**B. SUPERVISION**

31171. **ADDITIONAL HELP— DAY CARE HOMES.**

If one or more children in the home require more than usual care because of emotional or other disturbances there shall be at least two adults providing care for the children in the home on a regular basis.

31173. **SERVICE TO BE PROVIDED—GENERAL REQUIREMENTS.** Foster parents shall provide protection, care and guidance of children in a safe, comfortable home setting.

31175. **EMERGENCIES— DAY CARE HOMES.** For family day care homes, there shall be provision for another adult to be readily available on whom the family day care mother can call, in case of an emergency or illness, to provide temporary care for the children in the homes.

**C. Health**

31177. **DAILY EVALUATION FOR ILLNESS.** The family day care mother must evaluate each child daily for illness, at the time the child arrives at the home.

31179. **ISOLATION IN CASE OF ILLNESS.** When a child shows signs of illness he shall be separated from other children, and the nature of the illness determined as quickly as possible. If it is a communicable disease, he shall remain in isolation until he is over the infectious stage.

31181. **ADVANCE ARRANGEMENTS FOR MEDICAL CARE.** Advance arrangements must be made for the care of a child who is injured or becomes ill, including isolation if necessary, notification of his parents, and provisions for first aid and emergency medical care. The family day care mother shall have readily available the telephone number where the parent can be reached, as well as the name and telephone number of the child's physician. Illness of a child shall be reported at once to the person or agency responsible for the child.

31183. **PERSONAL HYGIENE.** Training in personal hygiene and cleanliness shall be given and each child must have his own comb, toothbrush, towel, washcloth and other necessary toilet articles.

31185. **PHYSICAL AND MENTAL HEALTH.** All members of the foster family, the household or employees, shall be in good health, both physically and mentally and free from defects or disabilities which would adversely affect the care of children.

The foster mother must be able to carry out the extra responsibility of a foster child without jeopardizing the development of the child, her own health or the care of her family.

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(Pursuant to Government Code Section 11380.1)

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**31187. BEDS—24-HOUR CARE.** Children shall have individual beds which shall be three feet or more apart. Each bed shall have a good spring, a clean comfortable mattress and adequate bedding. For infants and bed wetters, rubber sheeting or a satisfactory substitute shall be provided.

**1. Double Beds**

Two brothers or two sisters of suitable age are permitted to occupy a double bed only for a temporary period under emergency conditions when special permission is given by the licensing agency.

**2. Bunk Beds**

Bunk beds with more than two tiers shall not be used. Two-tier bunk beds shall be allowed only when:

- a. Children under eight years of age do not occupy the upper bunk, and
- b. Beds are constructed to offer comfort, sanitation and convenience, and
- c. There is sufficient ventilation.

**31189. SPECIAL REQUIREMENTS FOR DAY CARE.** Each family day care home shall provide space and equipment for free play, rest, privacy, and a range of indoor and outdoor activities suitable for the children's ages, and the number of children in the home.

- a. There shall be a separate room for toilet facilities.
- b. There shall be a separate area for cooking.
- c. There must be floors and walls which can be fully cleaned and maintained and which are nonhazardous to the children's clothes and health.
- d. There shall be ventilation and temperature adequate for each child's safety and comfort.
- e. Individual cots or beds shall be provided for rest periods and shall be at least three feet apart. Beds used by members of the household shall not be used by the children for rest periods except when:

(1) Special permission is given by the licensing agency and

(2) Clean covers are placed over the full length and width of the beds.

f. Space shall be provided for the isolation of the child who becomes ill.

g. There shall be provision for meeting the special needs of those handicapped children, if any, in the family day care home.

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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

Article 6. Buildings and Grounds

31190

**LOCATION.**

1. Homes in commercial or industrial districts will be approved only if there are adequate safeguards against traffic and other hazards.

2. Homes in rural areas must be in a district where schools and medical care are reasonably accessible; where children can associate with other children and participate in community activities.

31190.1

**GROUND.**

1. Homes shall have sufficient yard space for a home playground.

2. If the yard is not enclosed, toddlers shall be supervised at all times.

31190.2

**SPACE AND FURNISHINGS.**

1. Homes shall have sufficient space to accommodate children in a comfortable and sanitary way.

2. Rooms must be comfortably furnished.

3. Provision must be made for adequate care of children's clothing and personal belongings.

4. Care and protection of food must be adequate.

31190.3

**BUILDINGS, GROUNDS AND EQUIPMENT—COMPLIANCE WITH STATE LAWS AND REGULATIONS.**

Homes shall conform to state laws and regulations governing housing sanitation and fire safety.

31190.4

**SLEEPING ACCOMMODATIONS.**

No child shall sleep in a detached building, unfinished attic, basement, stairhall, or room commonly used for other than bedroom purposes, and an own child shall not be displaced and made to occupy such sleeping quarters because of the presence of a child, accepted for care.

31190.5

**BEDROOMS.**

The bedroom of a child shall provide privacy; be adequately ventilated, and lighted; be near lavatory, bath, and toilet facilities; and be located within call of an adult.

A bedroom shall be large enough to hold necessary furniture and leave some free floor space.

Necessary furniture shall include a separate bed for each child, a dresser or chest of drawers in which each child shall have a space that is specifically his, and other furniture and equipment appropriate to the child's age.

Each room shall have at least one outside window.

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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

SUBCHAPTER II. DAY NURSERIES

Article 1. Administration

31191. GENERAL REQUIREMENTS

The organization of every facility shall be such that legal responsibility is clearly defined and administrative authority specifically placed.

The persons responsible for the facility shall determine what children the facility can best serve, establish a program to serve these children and adopt policies which permit the admission of only those children who need what the facility has to offer.

A written statement of program shall include:

1. The purpose of the service.
2. The administrative framework for providing the service.
3. The conditions under which it will be made available.
4. Whether the service will be provided by the facility or secured from another agency.

The persons responsible for the facility shall review the program and admission policies at least annually to be sure that the program offered is needed by the children under care.

31192 GROUP CARE FOR INFANTS UNDER 2 YEARS

Group day care of children under 2 years of age shall be permitted for those children for whom the community involved offers no reasonable alternative, such as a sufficient number of family day care homes to provide adequate care, or to meet the special needs of particular groups, such as mothers attending school or training, or migrant workers living in special camps for migrant workers and shall be permitted only under the direction of a nonprofit facility.

If the <sup>operating</sup> /agency provides day care for 40 or more children, supported in whole or in part by federal funds, there shall be a policy advisory committee whose membership shall include not less than 50% parents or representatives chosen by the parents.

31192.1. REPORTS OF PERSONNEL. The name of the employed manager, if any the substitute manager and the night supervisor shall be reported to the licensing agency prior to the granting of the license.

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(Pursuant to Government Code Section 11380.1)

**31193 UNINCORPORATED FACILITIES**

The governing board shall adopt a constitution, stating in broad terms the purpose of the facility.

Bylaws setting up specific policies and functions shall be adopted by the organization.

A copy of the constitution and bylaws shall be filed with the State Department of Social Welfare.

Minutes shall be kept of all board meetings and shall be available for review by the State Department of Social Welfare.

There shall be a division of responsibility between the board and the director. The board shall delegate to the director the responsibility for the administration of the facility.

Partnerships

- (a) Each partnership shall be legally constituted.
- (b) There shall be a written statement of the obligation and duties of each partner and the provisions for dissolution of the partnership.
- (c) Each partner shall be at least 18 years of age.
- (d) Each partner shall meet the personal qualifications for all staff, unless the partner is not involved in the operation of the facility or his responsibilities are limited to financial aspects of the operation.
- (e) At least one of the partners shall have the qualifications required for an individual licensee.

Individual Licensee

Each licensee who is an individual shall:

- (a) Be at least 18 years of age.
- (b) Meet the qualifications for the director or employ a director who meets these qualifications.
- (c) Meet the personal qualifications for all staff.
- (d) Have the knowledge and ability to carry out the following responsibilities:
  - (1) Knowledge of good administrative, educational, and child welfare practices.
  - (2) Ability to communicate effectively in writing.
  - (3) Knowledge and ability to develop personnel practices which will make it possible to attract and retain qualified staff.
  - (4) Ability to organize time and materials.
  - (5) Knowledge and ability to develop sound financial practices based on understanding of capital outlay, operational budgeting, and payroll procedures.

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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31194. EMPLOYED DIRECTOR**

When professionally qualified director is employed to administer a facility, a clear written statement of the administrative responsibility and authority delegated to the director shall be developed. This written statement shall be available to the director and to SDSW.

**31195 FUNDS.****a. Any applicant for a new license must:**

(1) Have the financial ability to meet the cost of providing and equipping the physical plant and meeting other capital costs.

(2) Have available at the beginning of operation cash, other liquid reserves, guarantees by a responsible governing board or predictable income to cover the estimated cost of operation of the facility, in accordance with regulations and such additional services as may be set forth in policy and advertising statements, for at least three months. The number of enrolled children or children who may, with reasonable certainty be expected to enroll, may be included in determining the "predictable" income.

(3) Submit a written statement to the State Department of Social Welfare demonstrating financial ability to meet the fiscal requirements for a license.

**b. Continuing fiscal requirements**

(1) Each facility shall have sufficient resources in the form of financial reserves, anticipated income, or guarantees by a responsible governing board to insure a facility operation in keeping with regulations.

(2) Cash or other liquid assets sufficient to meet current obligations shall be available at all times.

(3) The funds shall be accounted for in a manner which makes it possible to show income and expenditures for the facility program.

**31196 FINANCIAL RECORDS**

Financial records including income and expenditures shall be maintained in sufficient detail to show the financial status of the facility.

Financial records shall be available for review by the State Department of Social Welfare.

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(Pursuant to Government Code Section 11380.1)

**31197 INSURANCE**

The facility shall carry adequate and appropriate insurance, including Workmen's Compensation coverage. Evidence of compliance with this section shall be available for review by the State Department of Social Welfare.

**31198 FEES**

Fees shall be in writing as a schedule or chart and be available to and discussed with all applicants.

Article 2. Personnel

**31199. PERSONAL QUALIFICATIONS**

All staff members must be of good character and equipped by education, training and/or experience for the work they are required to do.  
All staff members must be in good physical and mental health.

All persons having direct contact with children must be of suitable age and temperament for work with children. These persons must have the following qualifications:

1. They must be mature, responsible adults.
2. They must have the qualities of warmth and friendliness.
3. They must have the ability to understand and accept individual differences in children.

**31200 PERSONNEL QUALIFICATIONS**

All staff members must be of good character and equipped by education, training and/or experience for the work they are required to do.

All staff members must be in good physical and mental health.

All persons having direct contact with children must be of suitable age and temperament for work with children. These persons must have the following qualifications:

1. They must be mature, responsible adults.
2. They must have the qualities of warmth and friendliness.
3. They must have the ability to understand and accept individual differences in children.

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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31201. RESPONSIBILITIES OF DIRECTORS.** There must be a responsible director in charge of the nursery at all times it is in operation. To be in charge means that (except for programs lasting

more than eight hours) the director must usually be on the premises, available to staff, parents, and children. He may not accept outside employment which interferes with these duties.

(b) In a proprietary institution the director may be the owner or an employee of the owner.

(c) The structure of some organizations is such that substitution of the term "head teacher" is appropriate for the term "director". Such a difference in position title is acceptable provided the head teacher meets the qualifications of the director and there is appropriate written delegation of responsibilities.

(d) Licensees who are directors and who own two or more day nurseries must limit the responsibilities they carry. Each such day nursery must have a full-time director. The licensee may serve as the full-time director of one of the day nurseries or may serve as the executive director for all the day nurseries, employing a full-time director for each day nursery.

(e) The Director may be included in the child-teacher ratio during the times when he is actually engaged in teaching a group of children.

**31202 QUALIFICATIONS OF DIRECTOR**

**a. Day Nursery**

- (1) **Age.** The director must be at least 18 years of age.
- (2) **Education and Experience.**

(A) The director must have education and experience which will provide the knowledge and skill needed to carry out an effective program of child care set forth in these regulations and must meet one of the following requirements:

(1) High school graduation and successful completion of 12 semester units or the equivalent in Early Childhood Education or other formalized training, under a qualified instructor, in working with children of the age group to be served and the equivalent of three semester units in administration or staff relations and four years of teaching and child care experience in a day nursery or comparable group child care program.

OR

(2) One year of attendance at an accredited college or Junior College, and successful completion of 12 semester units or the equivalent in Early Childhood Education or other formalized training, under a qualified instructor, in working with children of the age group to be served and the equivalent of three semester units in administration or staff relations, and two years teaching and child care experience in a day nursery or comparable group child care program.

OR

(3) Two years of attendance at an accredited college or junior college and completion of 12 semester units or the equivalent in early childhood education or other formalized training, under a qualified instructor, in working with children of the age group to be served and the equivalent of three semester units in administration or staff relations, plus one year of teaching and child care experience in a day nursery or comparable group child care program.

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 WITH THE SECRETARY OF STATE**  
 (Pursuant to Government Code Section 11380.1)

**31202 QUALIFICATIONS OF DIRECTOR (Continued)**

OR

(4.) A Bachelor's degree from an accredited college  
 and

1. A major in Early Childhood Education, or
2. Successful completion of 12 semester units or the equivalent in early childhood education or other formalized training, under a qualified instructor, in working with children of the age group to be served and the equivalent of three semester units in administration or staff relations.

(B) Experience to be qualifying must be verified, satisfactory, full time (at least 3 hours per day for a minimum of 100 days in a calendar year) as a paid or volunteer staff member under supervision of a person who would qualify as a director under these regulations.

(1) The 12 semester units in working with children shall include courses covering the equivalent of the following:

- (A) Child Growth and Development or Human Growth and Development.
- (B) Child, Family and Community or Child and Family.
- (C) Program.

(2) Retroactive Qualification. The education and experience requirements do not apply to directors who were employed prior to

May 1, 1970. A director who qualifies under this provision shall so qualify for a period of three years following termination of employment.

**31203. SUBSTITUTE FOR THE DIRECTOR.** (a) When the director is required to be absent temporarily from the nursery, arrangements shall be made for another staff member at least 18 years of age to act as a substitute.

(b) If the absence is for more than one month, the acting director must meet the qualifications of a director.

**31205. NURSERY AIDE - Group Care of Infants**

A nursery aide is an individual at least 16 years of age who meets the personnel requirements of all staff. A nursery aide works, under the director and/or assistant director, to give continuous attention to the total physical, emotional and intellectual needs of a particular group of infants.

**GROUP CARE**

**31207. QUALIFICATIONS OF NURSERY AIDE/** An aide

must:

- (a) have graduated from high school or have equivalent education; or
- (b) be enrolled in a course leading to graduation from high school; or
- (c) demonstrate through previous experience the potential for increasing skills through study, conferences, observations and other means of learning.

and

(d) Have experience in caring for children, either in own home or other person's home, or as children's nurse, practical nurse or rearing own children.

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(Pursuant to Government Code Section 11380.1)

**31209. TEACHER - DAY NURSERY**

A teacher shall be at least 18 years of age, meet the requirements for all staff, and shall meet one of the following requirements:

(1) Enrolled in a course of study leading to a high school diploma or the equivalent, and have had two years' experience in group child care, and

Successful completion of 12 semester units or the equivalent in Early Childhood Education or other units of formalized training, under a qualified instructor, in working with children of the age group served by the day nursery, or

After employment, successful completion each year of at least two semester units or the equivalent in Early Childhood Education or other formalized training under a qualified instructor, in working with children of the age group served by the day nursery, until at least 12 such units shall have been completed.

(2) Graduation from high school or the equivalent such as receiving a passing grade in an appropriate examination, and

Successful completion of 12 semester units or the equivalent in Early Childhood Education or other units of formalized training, under a qualified instructor, in working with children of the age group served by the day nursery, or,

After employment, successful completion each year of at least two semester units or the equivalent in Early Childhood Education or other formalized training under a qualified instructor, in working with children of the age group served by the day nursery, until at least 12 such units shall have been completed.

(b) The education requirements do not apply to teachers employed before May 1, 1970. A teacher who qualified under this provision shall so qualify for a period of three years following termination of employment.

**31210 DUTIES OF TEACHERS - DAY NURSERY** (a) The teacher shall work full time with a group of children in keeping with the hours the nursery is in operation. The work with the children shall include planning and supervision of their care.

(b) The teacher shall have responsibility for:

(1) Supervising the children individually and as a group.

(2) Providing care, guidance, and developmental experiences, meeting appropriate educational and emotional needs of the children.

(c) The teacher shall not be expected to carry out simultaneously other responsibilities, except that during the children's rest period, he may perform some additional tasks related to his teaching function, provided the children are adequately supervised.

**31211. TEACHERS ASSISTANT - DAY NURSERY.** A teacher assistant shall be at least 18 years of age and meet the requirements for all staff and who works, with a teacher, full time with a group of children in keeping with the hours the day nursery is in operation. The work with the children shall include assisting the teacher in planning and supervising their education and care.

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56186-750 9-71 23M OSP

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**31213. TEACHERS — NUMBER — PARENT-COOPERATIVE DAY NURSERIES.** Parent-cooperative nurseries must arrange for a regular continuing assistant teacher in addition to the director and participating parents when the number of children reaches 25.

There must be at least one adult (staff and participating parents) for each five children in attendance.

**31215. CLERICAL, HOUSEKEEPING AND MAINTENANCE STAFF—**

Sufficient staff to carry out necessary clerical, housekeeping and maintenance functions shall be provided.

Persons employed for these functions shall not be included as teachers in considering the adequacy of teaching staff for regular supervision of groups, but may be used as emergency substitutes if personal qualifications and duties permit.

**31217. OTHER PROFESSIONAL STAFF—**

When nurseries employ or use professional staff such as physicians, psychiatrists, social case workers, psychologists or nurses, these persons must meet the minimum professional standards in their particular fields.

Professional persons whose practice is regulated by state law, must meet the requirements of the Department of Professional and Vocational Standards.

**31219. PERSONNEL**

**HEALTH.** A complete physical examination by a licensed physician shall be required of each staff member (including the director, teachers, parent participants, cooks etcetera) prior to beginning work.

This examination must include the verification of freedom from tuberculosis required by W&IC Sec. 16017. The nursery must also have on file, reports showing that each employee has had the required test or X-ray within the last twelve months, and is free from tuberculosis.)

The physician's report shall be in writing and shall be kept on file in the nursery.

Staff members shall not be allowed to come to work when ill with contagious diseases (such as colds) or with other illnesses which would affect their performance.

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**Article 3. Reception**

**31221. ADMISSION POLICIES.**

Every nursery must establish admission criteria designed to guide in the selection of children who can benefit most from the program and services it has to offer.

Every nursery shall state its admission criteria in writing and make such written policies available to the public.

The admission policies established by each nursery shall be determined by the total program, including:

1. The hours of operation
2. The size of groups
3. The number and qualifications of staff
4. The program activities
5. The supplementary services provided.

Although its program will determine the specific admission policies established by each nursery, the admission policies of all nurseries must include the following:

1. Children under two years of age shall not be accepted.
2. Each child admitted must be determined to be:
  - a. Ready for the type of group experience that the nursery has to offer
  - b. Able to benefit from the program offered.
3. Children who are physically handicapped or emotionally disturbed shall not be accepted, unless it is determined that:
  - a. There will be no adverse affect upon other children, either through direct behavior of the child or through requiring staff time needed by other children, *and*
  - b. The nursery is able to meet the individual needs of the child.

**31223. NONDISCRIMINATION.**

The written admission policies shall include a statement that the nursery is operated on a nondiscriminatory basis, according equal treatment and access to services without regard to race, color, religion, national origin or ancestry. An otherwise eligible child may not be excluded on the basis of these characteristics, except as indicated below.

A nonprofit nursery established to serve an identified group may serve children of this group, but shall not discriminate within the group on the basis of race, color, religion, national origin or ancestry.

A religious group may elect to serve children of a particular religious faith, but may not discriminate within the group on the basis of race, color, national origin or ancestry.

**31225. ADMISSION PROCEDURES.**

Each nursery must develop an admission procedure according to its individual program, policies and needs.

Regardless of the individual situation, the admission procedure must meet the following requirements:

1. There must be a plan for initial and continuing relationships between nursery and parent, which provides for a sharing by the parent in the decision about the admission of the child to the nursery and in all later decisions affecting the child.
2. There must be a plan for admission of the child to the group that will allow for gradual orientation of the child to the nursery.

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3  
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**31227. -INTERVIEWS WITH PARENTS.** The admission procedure must include a personal interview or interviews with the parent to exchange information and arrive at a joint decision about the admission of the child.

During the admission interviews, the parent must be given complete information about the nursery. This must include its admission policies and procedures, activities, services, regulations, hours and days of operations, and fees.

In these interviews, the nursery must obtain the following:

1. Assurance that the parent has a practical and realistic way of providing for the care of his child when ill.
2. All identifying information required by Case Records.
3. All health information required by Pre-Admission Health Evaluation
4. Instructions as to the action to be taken in case the parent or the physician designated by the parent cannot be reached in an emergency.

**31229. ADMISSION PROCEDURES—CHILD.** Each child's first days in the nursery must be planned for on an individual basis to make his adjustment to the nursery and to separation from his parents as smooth as possible.

**31231. Case Records.** A complete and current record shall be maintained for each child and shall be readily available at all times. A daily attendance record shall be maintained and shall be readily available at all times.

**31233. CONTENT OF RECORD.** The record on each child enrolled shall include the following:

1. **Identifying Information**, including:
  - a. Child's full name, birthdate and current address
  - b. Father's full name
  - c. Mother's full name
  - d. Addresses of both parents—if available
  - e. Name, address, telephone (home and business) and signature of person or persons responsible for child
  - f. Names of persons authorized to take child from the nursery
  - g. Names, address, and telephones of relatives or others who can assume responsibility for the child, if for some reason, the parent cannot be reached immediately, in an emergency
  - h. Name, addresses, and telephone of physician to be called in an emergency
2. **Health Information**, including:
  - a. Health history prior to admission, including immunizations.
  - b. Physician's Pre-admission report.
  - c. Instructions for the action to be taken in case the parent or the physician designated by the parent, cannot be reached in an emergency.
  - d. Continuing health history, including:
    - (1) Information on illnesses while enrolled in the nursery
    - (2) Detailed information on any accident or injuries to the child in the nursery, and any emergency medical attention given.
    - (3) Significant information learned from observation of the child.
3. **Information about enrollment and attendance**, including dates of admission and discharge.

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**31235. ADMISSION POLICIES— GROUP CARE OF INFANTS**

Every nursery must establish admission criteria designed to guide in the selection of children who can benefit most from the program and services it has to offer.

Every nursery shall state its admission criteria in writing and make such written policies available to the public.

The admission policies established by each nursery shall be determined by the total program, including:

- (a) The hours of operation
- (b) The size of groups
- (c) The number and qualifications of staff
- (d) The program activities
- (e) The supplementary services provided.

Although its program will determine the specific admission policies established by each nursery, the admission policies of all nurseries must include the following:

- (a) Each child admitted must be determined to be:
  - (1) Ready for the type of group experience that the nursery has to offer.
  - (2) Able to benefit from the program offered.
- (b) Children who are physically handicapped or emotionally disturbed shall not be accepted unless it is determined that:
  - (1) There will be no adverse affect upon other children, either through direct behavior of the child or through requiring staff time needed by other children, AND
  - (2) The nursery is able to meet the individual needs of the child.

**31236. CHILD.** Each child's first days in the nursery must be planned for on an individual basis to make his adjustment to the nursery and to separation from his parents as smooth as possible.

**Article 4. Care**

**31237. Continuing Services to Parents and Children**

All nurseries must maintain close contact with the children's parents so that the parents are informed about the child's activities, adjustment, and development.

Services requiring professional skills shall be given only persons who meet recognized professional qualifications.

Nurseries which provide casework or counseling services directly must have professionally qualified staff for these functions.

**31239. PROGRAM -**

Each nursery must provide a well balanced program of daily activities designed to meet the needs of the children served and based upon the principles of good nursery education.

The daily schedule must provide a certain amount of regularity to permit children to have:

- 1. The security of knowing what comes next.
- 2. A regular schedule of physical routines--meals, snacks, naps, and toileting.

There must be no regimentation of individual children to fit the schedule established.

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31239. PROGRAM (Continued)

A PLAY EQUIPMENT AND MATERIALS. Play materials and equipment in sufficient variety and quantity to meet the interests and needs of the children must be provided.

Equipment and materials must be suitable for the age range served, and must be selected according to the type of supervision provided.

B PROVISION FOR NAPS. Provision must be made for all children under five years of age to have a nap after lunch.

Adult supervision must be provided during nap periods.

Napping cots must be spaced to prevent overcrowding and to allow the children to rest well without distraction or disturbance.

C DISCIPLINE. Constructive methods must be used for maintaining group control and handling individual behavior.

Corporal punishment and other humiliating or frightening techniques are prohibited.

Punishment must not be associated with food, rest, isolation for illness or toilet training.

31241. Nutrition and Food Service. Nurseries in which children are cared for during regular meal times must make adequate provision for meeting their dietary needs.

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**31243. Facilities Receiving Federal**

**Funds - Compliance with Federal Requirements**

Every nursery operated by a public, voluntary, or proprietary organization which enters into a contract to accept children whose care is paid for from federal funds must meet Federal Interagency Day Care Standards as well as state licensing standards.

If the facility has one or more children for whom federal funds are received, it must meet federal staffing standards as well as state standards set forth in previous subchapters of this chapter.

If a nursery has a substantial number of children enrolled in the facility for whom federal funds are received, it must meet all the standards as defined in this subchapter, as well as state standards. An operating agency is considered to be utilizing a substantial amount of federal funds when:

1. 40 or more of the children enrolled are financed with federal monies; or
2. 25 percent or more of the children enrolled in the day care program are provided care with federal funds; or
3. 25 percent or more of the income of the center comes from a combination of federal and state or local matching funds.

**A. TEACHER-CHILD RATIO.** (a) There shall be an adequate number of qualified teachers on duty during the hours the nursery is in operation.

(b) No group of children shall be left without adult supervision at any time.

(c) For children three to four years old, there shall be no more than 15 in a group, with a teacher and sufficient assistants, supplemented by volunteers, so that the total ratio of adults to children is no less than one to five.

(d) For children four to six years old, there shall be no more than 20 in a group with a teacher and sufficient assistants, supplemented by volunteers, so that the total ratio of adults to children is no less than one to seven.

(e) For children six through fourteen years, there shall be no more than 25 in a group with a teacher and sufficient assistants, supplemented by volunteers, so that the total ratio of adults to children is no less than one to ten.

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**B. HEALTH SERVICES.** The operating or administering agency shall assure that the health of the children and the safety of the environment are supervised by a qualified physician.

Nurses or others with appropriate training may plan and supervise the health aspects of a day care program, but the total plan must be reviewed by a pediatrician or a physician especially interested in child health.

**C. STAFF TRAINING.** The operating or administering agency shall provide or arrange for the provision of orientation, continuous inservice training and supervision of all staff involved in the day care program.

**D. ADVISORY COMMITTEE.** Any agency which provides day care for 40 or more children shall have a policy advisory committee at the administrative level. The committee shall have not less than 50 percent parents or parent representatives, selected by the parents themselves by democratic methods. Other members shall include representatives of professional organizations or individuals who have particular knowledge or skills in children's and family programs.

**E. PERSONNEL RECRUITMENT.** Methods of recruiting and selecting personnel shall insure equal opportunity for all interested persons to file an application and have it considered within reasonable criteria. The methods for recruitment and selection of personnel shall provide for the effective use of nonprofessional positions, and for priority in employment to welfare recipients and other low-income people in filling these positions.

Where the administering agency contracts for services with private individuals or proprietary organizations, it must include contractual requirements designed to achieve the objectives of this action.

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**-GROUP CARE OF INFANTS**

31245 **FEEDING/** (a) The feeding of the children shall be planned by a nutritionist, pediatrician, or public health nurse, with the introduction of new foods into individual diets so as to insure proper nourishment and physical development of the infants.

(b) Infants under six months shall be held for bottle feeding. At no time shall a child be placed in bed with a propped bottle. At no time shall a child be allowed to carry a bottle.

(c) There shall be frequent communication with the child's mother about feeding, such as introduction of new foods, likes and dislikes, and introduction of cup.

**-GROUP CARE OF INFANTS**

31247 **TOILET TRAINING/** Staff shall have special instruction so that they may understand the developmental needs of children at the time toilet training is begun.

**-GROUP CARE OF INFANTS**

31249 **PARENT CONFERENCES/** There shall be a plan for regular conferences and referral for social services if it seems appropriate. However, it shall be the policy of the nursery that the parent has primary responsibility for his own child, and the final decision for the child's care shall be his.

**-GROUP CARE OF INFANTS**

31251 **SOCIAL SERVICES/** Provision shall be made for social services to be provided, as needed, to the families of children enrolled in the nursery.

Such social services may be provided in accordance with an agreement or contract with an established public or private social agency.

**-GROUP CARE OF INFANTS**

31253 **CLOTHING/** Each child shall have sufficient changes of clothing so that he can be clean and dry all day.

(a) Each child shall have a separate storage place for his clothing and this shall be clearly labeled.

(b) Disposable diapers or diaper service shall be used, and a separate container for their disposal shall be used.

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## Article 5. Safety

### A. Life Safety

**31255 SAFETY.** Physical facilities must be safe and suitable for the care of children and for the program of activities.

Awnings, canopies, or wooden lath structures used for shade must be approved for fire safety.

### B. Supervision

**31257 CHILD-STAFF RATIO GROUP CARE OF INFANTS** If a nursery has more than 25 infants enrolled, there shall be both a director and an assistant director on the staff.

(a) No group of children shall be left without adult supervision at any time. There shall be sufficient staff to assure that at least one staff person shall be within sight and sound of each child in the nursery at all times.

(b) There shall be at least one nursery aide for every four infants enrolled in the nursery. The aide shall devote her working day to the care of the infants, except at such time as rest periods, attendance at staff meetings, etc., when a regularly assigned substitute shall replace her.

(c) There shall be provision for overlap of staff for different shifts so that continuity of care is assured.

(d) There shall be sufficient auxiliary help for housekeeping duties, cooking, laundering, etc., so that the primary work of the aides can be devoted to child care when children are present.

### **31259 CHILD-TEACHER RATIO. DAY NURSERY**

(a) There must be an adequate number of qualified teachers on duty during the hours the nursery is in operation.

(b) No group of children shall be left without adult supervision at any time.

(c) There must be a teacher in charge of each group of children and another adult must be immediately available to substitute in case of emergencies.

(d) There must be an overall ratio of not less than one teacher to 12 enrolled children.

(e) A teacher-assistant may be used in a ratio of one teacher and one assistant for every 15 children enrolled.

(f) The Director of a nursery may be counted in the child-teacher ratio during the time he is actually engaged in teaching a group of children.

(g) Any nursery school which follows an educational philosophy and training program which is promulgated on a State or National basis by a recognized organization and generally recognized by the public as a definite philosophy of education, may apply to the SDSW for a waiver of this section if the regulation violates the philosophy of education providing that:

(1) The licensed facility is certified by the State or National organization as meeting its educational standards and:

(2) The licensed facility is identified publicly as following the tenets of the State or National organization and is so recognized by the consumers and:

(3) There is an overall ratio of at least one adult to each 12 children.

(h) For ratios for parent-cooperative nursery schools, see Section 31261.

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31261. **TEACHERS - NUMBER - PARENT-COOPERATIVE DAY NURSERIES.** Parent-cooperative nurseries must arrange for a regular continuing assistant teacher in addition to the director and participating parents when the number of children reaches 25.

There must be at least one adult (staff and participating parents) for each five children in attendance.

**C. Health**

31263. **GENERAL REQUIREMENT.** All nurseries must make adequate provision for the protection of the health of the children coming into their care.

31265. **PRE-ADMISSION HEALTH EVALUATION.** Prior to accepting a child, the nursery must determine that he is:

1. In good general health.
2. Without defects or illness which would endanger other children in the nursery or make his participation in vigorous activities inadvisable.
3. Physically and emotionally ready for the particular program of the nursery.

The nursery must secure information as to any special health problems or handicaps which will require attention in the nursery or limit the child's activities.

Reg. No. 31265-31269.

31267. **HEALTH HISTORY.** Before a child is accepted for care, the nursery must obtain from the parent, sufficient information about the child's health and development to:

1. Be sure that the child is within the normal range in health and development.
2. Know enough about the child to be able to understand his individual needs and be certain that they can be met in the nursery program.

31269. **PHYSICIAN'S REPORT.** (a) Prior to admission, the nursery must obtain for each child, not otherwise exempt, as provided below, a written report from a licensed physician, preferably the family physician.

(b) The physician's report must cover the child's:

- (1) General health.
- (2) Physical and emotional maturity.
- (3) Special problems and needs.
- (4) Immunizations.
- (5) Test for tuberculosis.

(c) The parent shall be required to have the child examined prior to admission, if the child has not had regular health supervision and there is no physician who can complete the report on the basis of his prior knowledge of the child's health.

(d) **Exception:** Parents who adhere to a religious faith practicing healing by prayer or other spiritual means, may be exempted from this requirement if they:

- (1) Provide the required health history.
- (2) Sign a statement which indicates their:
  - (A) Acceptance of full responsibility for the child's health.
  - (B) Refusal to obtain a medical examination of the child.
  - (C) Request that no medical care be given to the child.

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**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31271. IMMUNIZATIONS.** (a) All children not exempt from this requirement must have the following immunizations before admission:

- (1) Diphtheria
- (2) Pertussis
- (3) Tetanus
- (4) Poliomyelitis
- (5) Measles

(b) The nursery must obtain, as part of the preadmission evaluation, information as to whether such immunizations have been given, and shall refer all children not adequately protected for necessary immunizations.

(c) **Exception:** A child may be exempted from this requirement when:

- (1) His physician recommends against immunization on medical grounds, or
- (2) His parents sign a request for exemption on the basis of religious belief.

**31273. CONTINUING HEALTH SUPERVISION.** Nurseries must maintain continuing supervision of the children's health throughout the period of attendance.

The nursery staff must be alert to signs of physical, emotional or mental problems which may interfere with a good adjustment in the nursery.

Any unusual behavior or signs of illness shall be reported to the parents.

**31275. MORNING INSPECTION.** Ill children shall not be accepted for care in a nursery.

The nursery must make every effort to gain the cooperation of parents in keeping their children at home when they are not well.

The nursery has responsibility for seeing that children with obvious symptoms of illness, including the common cold, are not accepted.

The regular reception procedure used to meet this requirement must include the following:

1. A parent or a person designated by the parent must bring the child into the nursery, unless the child is old enough to come alone and the parent has made this plan with the nursery.

Children must not be dropped off at the door.

2. The adult bringing the child must remain until the child is accepted.

3. The child must be observed by a staff member who:

- a. Knows the child.
- b. Has had instructions as to early signs of illness and screening procedures.

4. The specific inspection procedure used must be in accordance with the advice of the nursery's consulting physician or local health department.

5. The inspection procedure must take place before the child enters the group.

When children are picked up by automobile at their homes, the inspection procedure must take place before the child enters the car.

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WITH THE SECRETARY OF STATE

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**31275. MORNING INSPECTION (Continued)**

Special attention shall be paid when:

1. A child has been absent because of illness.
2. A particular contagious disease is epidemic.

Under these circumstances, the nursery must be particularly careful to watch for early signs of this illness.

**31277. ISOLATION.** Some provision must be made for isolating and caring for a child who becomes ill during the day.

The parent shall be notified immediately when a child becomes ill, and asked to come for him at once.

An ill child may be kept in the nursery only until his parent can come for him.

**31279. EMERGENCY MEDICAL CARE.** In cases of illness, accident, or injury to any child, the nursery must be able to make prompt arrangements for notification of the parents and for medical care, if necessary.

Parents shall be notified immediately of any illness or injury to the child in the nursery, and their specific instructions regarding action to be taken, obtained.

The nursery must be prepared to obtain emergency medical care without specific parental instruction in case the parents cannot be reached immediately, or the nature of the illness or injury is such that there should be no delay in getting medical advice.

The nursery must have an arrangement with a nearby physician, clinic, or hospital so that immediate treatment can be obtained in emergencies.

**31281. FIRST AID.** The nursery shall maintain first aid supplies sufficient to care for minor cuts and scratches.

The first aid supplies shall include only those items the person in charge is qualified to use.

**31283. GENERAL SANITATION.** Nurseries must maintain an acceptable level of general sanitation and cleanliness with regard to the plant, playground, equipment and storage of supplies, bedding, clothing, etc.

Provisions for proper washing of dishes and cooking utensils must be made.

The use of common wash cloths and towels by the children is prohibited.

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**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31284. GENERAL SANITATION - GROUP CARE OF INFANTS**

Nurseries shall maintain an acceptable level of general sanitation and cleanliness with regard to the building, playground, equipment and storage of supplies, bedding, clothing, food and other equipment.

(a) Each care-taking person caring for infants shall wash his hands before and after each care-taking act involving contact with the child. Examples of this could be changing diapers, feeding, bathing, and rocking, etc.

(b) Provision of proper washing of dishes, bottles and utensils shall be made. Unless a dishwasher is used, they shall be dipped in a sterilizing solution and air dried.

(c) The use of common washcloths and towels for the children is prohibited.

(d) All rooms shall be cleaned daily.

(e) All walls and floors shall be made of such material that they can be easily washed.

(f) Diapering shall be done for each child in his own crib, or if a common changing table is used the cover shall be changed after each child's use. Disposable paper towels or appropriate substitute may be used for this purpose. An unpadded surface should be wiped with soap and water after each use.

(g) If training chairs are used they shall be emptied promptly and sanitized at least one a day. The plastic one-piece units which can be immersed in a sanitizing solution are preferred.

**-Group Care for Infants Under Two Years of Age**

**31285. MEDICAL CONSULTATION** / Every nursery caring for infants shall have provision for continuing medical consultation from a licensed physician. Such medical consultation shall include the following:

(a) Development of plans for continuing surveillance of communicable diseases.

(b) Development of plans for daily health surveillance including plans for the care of the sick children.

(c) Development of procedures for recordkeeping and reporting of accidents and illnesses.

(d) Standing orders for allowed treatment for nonlife-endangering illnesses.

(e) Plan for procedures for emergency health care including posting of necessary telephone numbers.

(f) Plan for storage of medications.

(g) Determination of the adequacy of emergency first aid procedures including the availability of trained staff.

(h) Plan for the provision for the continuing health care of those children who are not under the care of a personal physician.

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**WITH THE SECRETARY OF STATE**

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**31287 HEALTH EVALUATION.** Every child admitted to the nursery shall have a physical examination within two weeks after admission unless he has had a complete physical examination within a month prior to his admission. The purpose of this examination is to detect problems requiring further medical care, and to determine the appropriateness of day care for the child. The appropriate immunizations for his age shall have been given or shall be in process.

**31289 COMPREHENSIVE RECORD.** A comprehensive record shall be maintained at the nursery for each child and shall contain the following:

- (a) Significant physical findings at admission.
- (b) Written report of physical examination.
- (c) Plan for medical care in case of emergency.
  - (1) Name of family physician or source of health care.
  - (2) Written permission from the family to obtain emergency medical care and permissible alternative sources of care.
  - (3) Telephone number and address of place where parents can be reached in an emergency, if possible.
  - (4) Competent adult authority to act for parent in case of emergency when parent is not available.
- (d) Notes of staff and/or nurse as to child's health and development.
- (e) Pertinent subsequent physical findings.

**Article 6. Buildings and Grounds**

**31291 PLAYGROUND—GENERAL REQUIREMENT.** There must be outdoor play space adequate in size for the group in attendance, properly surfaced and fenced and conveniently located in relation to the indoor facilities.

**31293 PLAYGROUND—SIZE.** There must be at least 75 square feet per child of outdoor play area.

**31295 PLAYGROUND—LOCATION AND ARRANGEMENT.** The playground must be so situated that it will:

- 1. Provide adequate sunshine and shade, according to climatic conditions and hours of operation.
- 2. Permit children to reach it without hazard.

Equipment and activity areas must be arranged so that there will be no hazard from conflicting activities. Solid equipment shall not be located where running children might bump into it.

**31297 PLAYGROUND—SURFACING.** The surface of the playground must have good drainage and be:

- 1. Safe and suitable for the activities planned.
- 2. Free of hazards, such as broken glass and other debris.
- 3. Properly maintained.

The areas under high climbing equipment, swings, slides and other equipment from which children might fall, must be of resilient material, such as tanbark or sand.

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**31299. PLAYGROUND—FENCING.** The playground must be properly fenced with a substantial fence of sufficient height to provide adequate protection for children and to keep them in the playground.

All fish ponds, wading pools, swimming pools and similar bodies of water shall be made inaccessible when not in use, by fencing or covering.

Any construction or equipment (such as an incinerator) which cannot be removed, and which causes a hazardous situation on the playground must be adequately fenced off or enclosed.

**31301. BUILDING — GENERAL REQUIREMENTS — ALL NURSERIES.**

**1. Heating**

All rooms used by the children shall be adequately heated. Fireplaces and open-faced heaters shall be protected by adequate screens.

Heating equipment and installation shall be subject to the approval of the fire inspection authority having jurisdiction.

**2. Windows**

All rooms must be well lighted and ventilated.

Window space must be at least  $\frac{1}{8}$  of the floor area of the room, and 50% of the required windows must be openable.

**3. Floor Covering**

The floors of all rooms must have a surface which provides safety, warmth and cleanliness.

**4. Cleaning Facilities**

Adequate provision must be made for the storage of cleaning equipment, and for the disposal of waste water.

Rooms to be used for indoor activities must be of suitable size and arrangements to permit:

1. Proper grouping.
2. Good program planning.
3. Necessary supervision.

**31303. INDOOR PLAY SPACE — GENERAL REQUIREMENTS.** There must be adequate indoor space for the children's play activities and for dining and napping when these are included in the program.

**31304. INDOOR PLAY SPACE — SIZE OF FLOOR AREA.**

The indoor play rooms must have sufficient floor area (occupied only by the children's play materials, equipment and furniture) to provide 35 square feet of floor space per child.

Floor space occupied by permanent built-in cabinets and shelves may not be considered as floor space available for play.

An exception to the floor area requirement may be permitted for nurseries offering a half-day program when:

1. Most of the program is carried on out-of-doors.
2. The outdoor play space is of proper size and easily accessible to the indoor play area.
3. The nursery will be closed in inclement weather, or the capacity reduced to the number the indoor play area can properly accommodate.



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**FILING ADMINISTRATIVE REGULATIONS**  
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**31305. INDOOR PLAY SPACE GROUP CARE FOR INFANTS.** (a) There shall be adequate indoor play space separate from the sleeping area. There must be sufficient space to provide areas where toddlers can explore in a safe manner an environment that offers stimulation and experimentation.

(b) There shall also be space where children who cannot yet walk can be in playpens or can be placed on the floor for free play and crawling.

(c) The play space shall be equipped with washable, safe manipulative toys which lend themselves to the development of perceptual, and auditory discrimination. They shall not be small enough to swallow nor made of material which could splinter.

(d) There also shall be sufficient space for quietness and privacy for those children who need it.

(e) The room for play shall be equipped with pictures, books, record players, and other items so that it offers variety, change and encouragement to explore.

**31307. OUTDOOR PLAY SPACE GROUP CARE FOR INFANTS.** (a) There shall be adequate, well-fenced outdoor play space, properly drained, shaded, free from rubbish, litter or other hazards.

(b) There shall be space for those children who will be in playpens but who need an interesting area with both sun and shade.

(c) The outdoor play space shall be equipped with toys to provide development of large muscles.

**31309. SLEEPING ARRANGEMENTS.** Each child shall have a separate crib, cot or floor pad for sleeping purposes and no other child shall occupy this.

(a) Each child's bedding shall be used for him only, and shall be replaced when wet or soiled.

(b) Bedding shall be changed daily.

**31311. TOILETS AND HANDWASHING FACILITIES.** There must be an adequate number of toilets and handwashing facilities in the nursery and accessible and available for general use by the children.

One toilet and handwashing facility is required for the first 14 children, and one additional toilet and lavatory must be added for every 10 children, or fractional part thereof in excess of 14 children.

There must be one toilet and handwashing facility, separate from the general use toilets for isolation, staff, and emergency use. It must be conveniently located.

There must be hot water (between 100° F and 130° F) in the washrooms.

**31313. DRINKING WATER.** Drinking water must be readily available both in the playrooms and on the playground, so that children are free to drink as they wish.

**31315. KITCHENS.** All nurseries which provide a noon meal must have a kitchen of adequate size.

Kitchens must be equipped with:

1. A stove and sink.
2. Hot and cold running water.
3. Refrigeration.
4. Storage space for food, dishes, and cooking utensils.

000124

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**31315. KITCHENS. (Continued)**

Kitchens shall not be used for:

1. Children's play activities.
2. Napping.
3. Passageways for children.

Half-day programs which serve a mid-morning snack only, are not required to have a kitchen when:

1. Adequate refrigeration is available for any perishable foods served.
2. Provision is made for washing any dishes, cups, glasses or utensils used.

**31317. OFFICE SPACE.** Some space must be available in the nursery to serve as an office.

This space must be adequate in size and location, and properly equipped to meet the needs of the nursery.

**31319. STAFF REST ROOM—FULL DAY PROGRAMS.** There must be a properly equipped room available for use as a staff rest room.

The equipment in this room must include:

1. A day bed or couch.
2. Space for storage of coats and personal belongings.

**31321. FURNITURE AND EQUIPMENT.** An adequate number of tables and chairs must be provided to meet the needs of the group to be served for meal time and play activities.

Tables and chairs must be scaled to the size of the children using them.

There must be a well-constructed cot and bedding available for each child who naps.

Suitable play equipment and materials must be provided.

All equipment must be kept in good condition, free of sharp, loose or pointed parts.

Furniture and equipment must be arranged so as not to interfere with exits.

**31323. STORAGE SPACE.** Suitable provision must be made for storage of the children's clothing and personal belongings.

There must be adequate storage space in the play rooms for play materials and equipment to be used by the children.

There must be storage space for extra supplies of play materials in or conveniently near the play room or playground.

Storage for cots and bedding must be provided in a location which is convenient to the napping areas.

A locked cabinet or other storage space inaccessible to the children shall be provided for First Aid supplies.

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SUBCHAPTER 3. CHILDREN'S INSTITUTIONS

Article 1. Administration

31325 General Requirements

The organization of every facility shall be such that legal responsibility is clearly defined and administrative authority specifically placed.

The persons responsible for the facility shall determine what children in the facility can best serve, establish a program to serve these children and adopt policies which permit the admission of only those children who need what the facility has to offer.

A written statement of program shall include:

1. The purpose of the service.
2. The administrative framework for providing the service.
3. The conditions under which it will be made available.
4. Whether the service will be provided by the facility or secured from another agency.

The persons responsible for the facility shall review the program and admission policies at regular intervals to be sure that the program offered is needed by the children under care.

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31327 Incorporated Facilities

Each licensee which is a corporation or association shall be legally organized.

A copy of the Articles of Incorporation and Bylaws shall be filed with the State Department of Social Welfare.

Minutes shall be kept of all board meetings and shall be available for review by the State Department of Social Welfare.

There shall be a division of responsibilities between the board and director. The board shall delegate to the executive director the responsibility for administration of the facility.

Board members shall serve without financial or material profit. No board member shall be employed by the facility regularly, either full-time or part-time.

Facilities conducted as one function of a larger nonprofit corporation need not be incorporated separately.

31329 Unincorporated Facilities

The governing board shall adopt a constitution, stating in broad terms the purpose of the facility.

000127

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WITH THE SECRETARY OF STATE

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31329. UNINCORPORATED FACILITIES. (Continued)

Bylaws setting up specific policies and functions shall be adopted by the organization.

A copy of the constitution and bylaws shall be filed with the State Department of Social Welfare.

Minutes shall be kept of all board meetings and shall be available for review by the State Department of Social Welfare.

There shall be a division of responsibility between the board and the director. The board shall delegate to the director the responsibility for the administration of the facility.

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000128

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WITH THE SECRETARY OF STATE

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31331 PARTNERSHIPS. (a) Each partnership shall be legally constituted.

(b) There shall be a written statement of the obligation and duties of each partner and the provisions for dissolution of the partnership.

(c) Each partner shall be at least 18 years of age.

(d) Each partner shall meet the personal qualifications for all staff, unless the partner is not involved in the operation of the facility or his responsibilities are limited to financial aspects of the operation.

(e) At least one of the partners shall have the qualifications required for an individual licensee.

31333 INDIVIDUAL LICENSEE. Each licensee who is an individual shall:

(a) Be at least 18 years of age.

(b) Meet the qualifications for the director or employ a director who meets these qualifications.

(c) Meet the personal qualifications for all staff.

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WITH THE SECRETARY OF STATE**

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**31333. INDIVIDUAL LICENSEE. (Continued)**

(d) Have the knowledge and ability to carry out the following responsibilities:

- (1) Knowledge of good administrative, educational, and child welfare practices.
- (2) Ability to communicate effectively in writing.
- (3) Knowledge and ability to develop personnel practices which will make it possible to attract and retain qualified staff.
- (4) Ability to organize time and materials.
- (5) Knowledge and ability to develop sound financial practices based on understanding of capital outlay, operational budgeting, and payroll procedures.

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WITH THE SECRETARY OF STATE**

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**31335. EMPLOYED DIRECTOR**

When professionally qualified director is employed to administer a facility, a clear written statement of the administrative responsibility and authority delegated to the director shall be developed. This written statement shall be available to the director and to SDSW.

**31337 FUNDS—ALL INSTITUTIONS.** Sufficient funds shall be available at all times to insure adequate care of the children in accordance with:

1. The purpose of the institution.
2. The type of program and services planned.
3. The standards of the State Department of Social Welfare.

**31339 INSURANCE—ALL INSTITUTIONS.** The institution shall carry adequate and appropriate insurance, including Workmen's Compensation coverage.

**31341 FINANCIAL RECORDS—ALL INSTITUTIONS.** Sufficient records shall be kept to show the current financial status of the institution, including income and expenses.

The records established shall show the amounts and sources of all income and all expenses, assets and liabilities, and be available for inspection by the State Department of Social Welfare.

An annual budget shall be prepared and filed with the State Department of Social Welfare.

**31343 PAYMENT FOR CARE—ALL INSTITUTIONS.** Institution fees shall be in writing as a schedule or chart and be available to and discussed with all applicants. Institution fees may be established on a sliding scale.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**Article 2. Personnel**

**31345. GENERAL REQUIREMENT.** The staff of each facility shall be sufficient in number and competence to carry out the functions of the facility and to provide a quality of service which meets the needs of the children accepted for care, and any parents who are accepted for service.

Staff shall be compensated.

Children in care shall not be used as substitutes for regular paid employees.

**31347. Personnel Qualifications**

All employees shall be qualified by age, health, education, training and experience for the positions they are to fill and shall have in addition, qualities of character and temperament suitable for work with children. These qualities include:

1. Genuine liking for children and a respect for each child as an individual.
2. Mental and emotional stability, a sense of humor, personal integrity and respect for spiritual values.

**31349 EXECUTIVE DIRECTOR - RESPONSIBILITIES AND QUALIFICATIONS.**

Each institution shall have director, who in a proprietary institution may either be the owner-director or director employed by the owner, who is responsible for the performance of the following duties and who possesses in substantial degree the qualifications listed below:

**Duties:**

1. Administer the institution in accordance with established policy, program and budget.
2. In an incorporated institution or association, attend all regular board meetings, report on the operation of the institution, and interpret recognized standards of child care to the board, or the owner.
3. In an incorporated institution or association, work cooperatively with the board to define areas of the board and staff responsibilities and help the board to function effectively in appropriate aspects of the program.
4. Develop an administrative plan and procedures to insure clear definition of lines of responsibility, equitable workloads, adequate supervision, harmonious working relationships, and the promotion of the concept of a team approach.
5. Ensure preparation of annual budget for board consideration, keep board informed of financial needs and operate within the budget established.
6. Recruit qualified staff, employ staff, supervise; train, terminate employment of or discharge staff.
7. Interpret the institution's program to other social agencies and to the public, and coordinate the institution's program with the over-all child welfare program of the community.
8. Provide leadership in staff development and stimulation.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31349. EXECUTIVE DIRECTOR - RESPONSIBILITIES AND QUALIFICATIONS (cont)**

9. Supervise building maintenance, institutional management and purchasing.
10. Ensure preparation of periodic reports and an annual report.
11. Evaluate continuously the effectiveness of the services for children and parents, and seek new approaches and knowledge.

**Education and Experience**

There may be different combinations of education and experience which lead to the knowledge and skills required to administer a children's institution, however, the following qualifications are required:

1. The executive director shall have a bachelor's degree from an accredited college and preferably should be a graduate of an accredited school of social work.
2. The executive director shall have three years of paid experience in administration or supervision in a social agency, preferably experience in a setting providing institutional care of children.

**31351. ASSISTANT DIRECTOR—RESPONSIBILITIES AND QUALIFICATIONS.** The assistant executive director shall possess the education and experience qualifications listed below:

**Education and Experience**

There may be different combinations of education and experience which lead to the knowledge and skills required to administer a children's institution, however, the following qualifications are required:

1. The assistant executive director shall have a bachelor's degree from an accredited college and preferably should be a graduate of an accredited school of social work.
2. The assistant executive director shall have not less than one year of paid experience in administration or supervision in a social agency, preferably experience in a setting providing institutional care of children.

When there is not an assistant executive director responsible during the executive director's absence, there shall be some other suitably qualified employee regularly designated to substitute for the executive director in his absence.

**31353. SOCIAL WORK SUPERVISOR—RESPONSIBILITIES AND QUALIFICATIONS.** When two or more social workers are employed, one shall fulfill the responsibilities of a social work supervisor if (1) the executive director cannot meet the qualifications of this position, or (2) the total number of persons the executive director supervises would exceed five.

The ratio of social work supervisor to social work staff shall not exceed an average of one to five.

The supervisor shall be responsible for the following duties and possess the qualifications listed below:

**Duties**

1. Develop and recommend to the executive director appropriate policies and procedures to insure (a) a desirable quality of social service, (b) the maintenance of adequate case records and statistical records, (c) the coordination of social work services with the other services of the institution, and (d) a comprehensive staff enrichment and social work training program.
2. Secure accurate information about services provided by other agencies and when indicated, assist the executive director in developing or revising interagency agreements.

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**WITH THE SECRETARY OF STATE**

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**31353. SOCIAL WORK SUPERVISOR-RESPONSIBILITIES AND QUALIFICATIONS (cont)**

3. If requested by the executive director (a) assist in the recruitment of qualified social workers when vacancies occur, (b) prepare reports and other written material, (c) interpret the program and social work service of the institution to the board, to board committees, to other agencies or the public, and (d) represent the institution at meetings of social agencies or social workers.

4. Assume responsibility for (a) the work assignment and supervision of social work staff and (b) arrange individual and group conferences with the staff in the institution and in other agencies.

**Knowledge and Abilities**

1. Knowledge of the social work process, social work literature including that relating to casework with children and families.

2. A good working knowledge of supervisory and administrative practice, with ability to formulate policy and procedures; to plan and direct the provision of sound social work services; to secure effective services from the social work staff; to develop good working relationships with other social agencies and community groups; and to interpret the program of the institution effectively.

**Education and Experience**

1. Successful completion of a two-year curriculum in social work in an accredited graduate school of social work or a master's degree in an allied field of the behavioral sciences, and a minimum of three years in the past ten years of successful paid experience in the field of family or child welfare, which includes experience in work with children and in planning, supervising and coordinating the work of other caseworkers; or

2. Successful completion of a two-year curriculum in social work in an accredited graduate school of social work or a master's degree in an allied field of the behavioral sciences, and a minimum of four years of experience in social work practice shall be required; part of which shall have been in an agency providing treatment services to children and their parents.

**31355. SOCIAL WORKER — RESPONSIBILITIES AND QUALIFICATIONS.** Every institution shall employ or otherwise secure the services of one or more social workers who

possesses the qualifications listed below:

1. Knowledge of community resources and legislation pertaining to child welfare.

2. Ability to provide direct services for children with or without psychiatric consultation, or serve as a member of a clinical team.

**Education and Experience**

Social workers shall have the following minimum qualifications:

1. Successful completion of a two-year curriculum in social work in an accredited graduate school of social work, or a master's degree in an allied field of the behavioral sciences; or

2. A minimum of one year of graduate work in an accredited graduate school of social work and at least two years of experience in the field of child welfare or family welfare; or

3. If one year of graduate work has not been completed, then the social worker shall have a bachelor's degree and have had at least four years of paid experience in the field of child welfare or family welfare.

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**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

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**31357. CHILD CARE WORKER — RESPONSIBILITIES AND QUALIFICATIONS.** The child care worker carries responsibility for daily care and supervision of the living group to which he is assigned, and the individual children in it. The primary responsibility of the child care worker shall be the care of the children individually and as a group and this shall have precedence over any other duty he may perform. The child care worker shall perform the following duties and shall possess in substantial degree the qualifications listed below:

**Duties**

1. Participates as a team member in discussion of plans for, and progress of individual children in his group, and in planning regarding admission, grouping and discharge.
2. Takes charge of living group and carries responsibility for child rearing responsibilities which parents usually perform and which include: physical care, development of habits, care of clothing, teaching management of money, assignment of daily and weekly chores, help with school work, teaching values, discipline and makes arrangements for those children who attend religious services.
3. Carries authority in his group situation and is responsible for discipline of children in the group situation in accordance with an approach to discipline that is administratively determined.
4. Observes the functioning and development of individual children in the group and is responsible for being aware of difficulties related to the group or their family situations and shares these observations with other members of the team in accordance with the administratively determined procedures of the institution.
5. Manages group living unit and sees that maintenance requirements are met.

**Personal Qualifications**

The child care worker shall be a mature, emotionally secure person of suitable age and temperament to care for children. Child care worker shall be of good judgment, able to get along with other staff members, sympathetic with the program of the institution and able to give the children individual understanding and affection. Child care staff shall be selected on the basis of personal characteristics that qualify them to work with children, e.g., personal warmth for children, high resiliency, flexibility and acceptance; on the basis of their ability to serve as part of a team and to accept the objectives, policies and procedures of the agency in providing institutional care.

**Knowledge and Abilities**

The child care worker shall have the ability or potential ability to fulfill the following:

1. Understand his role in carrying out plans for each child and the roles of other members of the staff team.
2. Provide a framework of consistency and stability in which the child can grow at his own pace, develop his personality and establish a sense of security.
3. Individualize the child in the group.

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**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

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31357. CHILD CARE WORKER-RESPONSIBILITIES AND QUALIFICATIONS (cont)

4. Deal with behavior that is defiant, frequently aggressive and hostile in a constructive way.

5. Enable children in group care to have positive group living experiences.

6. Withstand the physical and emotional strain of caring for active and disturbed children and to rebound after periods of tension.

7. Encourage group to participate in recreational activities and to take part in them himself as appropriate.

8. Understand his role in relation to child's own parents. No person under 21 years of age shall be employed as a child care worker.

**Education and Experience**

A child care worker shall be a high school graduate and demonstrate the potential for further training and education.

**31359. CHILD CARE WORKER-STAFFING.** There shall be an adequate number of qualified adults to provide the daily care and supervision needed by the children.

During the children's waking hours staffing for the child care worker, or any other person functioning in this capacity, shall be on a ratio of not less than one on-duty worker to each ten adolescent children and not less than one on-duty worker to each eight pre-adolescents. When the children require special care the number of on-duty workers shall be increased proportionately.

No group of children shall be left without adult supervision at any time.

In order for children to have a relationship with persons of both sexes, men and women shall be employed. Where it is not appropriate to employ child care workers of both sexes, this shall be compensated for by the employment of persons of the other sex in other positions.

**31361. HOUSEKEEPING AND MAINTENANCE STAFF.**

Cooks, kitchen help, housekeeping staff, gardeners and janitors shall be employed in sufficient numbers to carry on the everyday housekeeping functions of the institution.

Any responsibility assumed by the child care staff or the children for cooking, cleaning, gardening, or other maintenance shall be related to the needs of the children, rather than the need of the institution for employees to perform those tasks.

Housekeeping and maintenance staff shall be chosen for their personal qualities, as well as for their skill in their particular job.

**31363. OTHER SPECIALIZED STAFF.** All specialized personnel, such as caseworkers, group workers, recreation workers, psychologists, psychiatrists and teachers shall be qualified by training and experience in accordance with recognized professional standards.

31364

**RELIEF STAFF.** Sufficient staff shall be employed to allow vacations and regular time off for all employees. Sufficient relief staff shall be employed to permit all child care staff to have vacations and at least one full day off each week. Relief for child care staff shall be arranged to provide continuity of supervision to the children.

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31365. MEDICAL STAFF.** Preventive and remedial medical care shall be given by a physician, preferably a pediatrician, who is licensed to practice medicine and surgery in California.

The duties of the physician who directs the health program shall include (1) assisting the institution in formulating and carrying out its program for health and medical services; (2) advising the administrator on coordination of the over-all health program, including the keeping of medical records; (3) instructing staff members in the essentials of an effective, well-rounded medical program; (4) making or interpreting preadmission, annual, and predischARGE examination and remedial treatment of children; (5) consulting on periodic health examinations of all employees; (6) assisting the administrator with definite arrangements with local hospitals for admission of children when hospital care is necessary.

When an institution operates its own infirmary, qualified nursing service shall be available as needed. When the institution is not large enough to warrant the employment of a full-time nurse, service may be obtained by employing a nurse on a part-time basis or by purchasing the service from a visiting nurse's association.

When skilled nursing service is needed, the service shall be provided by a nurse who holds a California Registered Nurse's License.

**31367. PHYSICAL EXAMINATIONS.** Before employment each prospective employee shall submit a written report of a recent physical examination made by a licensed physician. The physician's statement must certify that the job applicant is physically able to perform the required duties and is free from venereal disease, tuberculosis, and all other communicable infections.

The physical examination shall include an intradermal test and if this test is positive, a chest X-ray. (The institution must also have on file, reports showing that each employee has had the required test or X-ray, during the last 12 months, and is free from active tuberculosis. W&IC Section 16017.)

Employees with responsibility for the preparation or serving of food shall have daily health supervision and when symptoms of illness appear, they shall be excluded from work until recovery, or clearance from a physician or staff nurse.

All staff working directly with children and those who may affect the health of the children through indirect contact, e.g., handling food, dishes, and other cooking utensils shall have annual health examinations.

**31369. USE OF VOLUNTEERS.** When the services of volunteers are available to the institution for services not otherwise available to the children through staff, provision shall be made for their selection, orientation, training and supervision by the institution.

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# **FILING ADMINISTRATIVE REGULATIONS WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

## **Article 3. Reception**

**31371 ADMISSION POLICIES — GENERAL REQUIREMENTS.** The institution shall accept only those children it is equipped to serve adequately, and to whom it can offer the type of care needed.

Every institution must establish admission criteria designed to guide in the selection of children who can benefit most from the program and services it has to offer.

Every institution shall state its admission criteria in writing and make such written policies available to the public.

**31373 NONDISCRIMINATION ADMISSION POLICY.** The written admission policy shall include a statement that the institution is operated on a nondiscriminatory basis, according equal treatment and access to services without regard to race, color, religion, national origin, or ancestry. An otherwise eligible child may not be excluded on the basis of these characteristics, except as indicated below.

A nonprofit institution established to serve an identified group may serve this group, but shall not discriminate within the group on the basis of race, color, religion, national origin, or ancestry.

A religious group may elect to serve children of a particular religious faith, but may not discriminate within the group on the basis of race, color, national origin, or ancestry.

**31375 ADMISSION PROCEDURES.** Each institution shall have a defined procedure of intake study, which study shall cover all information relative to an assessment and understanding of the child's problems leading to a determination of why institutional placement is necessary, what is the best placement, and how the institution selected for placement can meet the child's and family's needs.

When a referring agency initiates the placement, there shall be an agreement between that agency and the institution on exchange of information related to the intake study.

Whenever available, pertinent sources of information for the intake study shall include the child and his family, the referring agency (if there is one), and significant family members outside the immediate family. The intake study shall also include foster parents, teachers and other school personnel, other community agencies, physicians, psychiatrists, and psychologists.

Specific content of the intake study shall include:

1. Characteristics of the child
2. Developmental history
3. Family circumstances
4. Parent's expectations of placement
5. Child's understanding of placement
6. Current medical status
7. Legal status of child

The intake process shall include a discussion with the child and his family, and the referring agency (if there is one) about the reasons for placement. The discussion shall include probable length of placement and reactions to the plan for care. Wherever possible, arrangement shall be made for the child to visit the institution before placement.

Admission for care shall be made in terms of the purposes to be achieved by placement and be based on a goal-oriented plan of care.

The intake study shall include discussion and agreement with the parents or the child-referring agency on financial arrangements for payment for child's care.

If the referring agency is extending social work or other services to the family, there shall be agreement as to their respective roles.

At the time of admission, or subsequently, if the child or his family requires a service other than the institution can provide (such as foster family care, family counseling, financial assistance, or psychiatric services), referral shall be made to another agency in the community providing the appropriate service.

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000137

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
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(Pursuant to Government Code Section 11380.1)

**31377. Case Records -** Institutions shall maintain adequate case records for each child and family.

**A. CONFIDENTIALITY OF CASE RECORDS.** Case records shall be maintained as confidential case records and be kept in a locked file.

Every member of the board and staff shall be required to respect the confidentiality of these case records.

**B. RELEASE OF CONFIDENTIAL INFORMATION.** Information about children and their families shall be given to other agencies only when professional judgment indicates that it is in the best interest of these persons or when the institution's responsibility to the community requires it. Information shall also be given to other agencies when professional judgment indicates that it is for the purpose of study, control, or when required for the child's safety or the safety of others.

Whenever possible, written consent of the parents shall be obtained for release of information to other agencies or individuals, except when the protection of others is involved.

**C. CONTENT OF CASE RECORDS.** All records shall include information needed for providing services for the child and the family, for planning, and for periodic reevaluation, as well as information that shall be retained if needed at some future time for the child.

**D. RECORDING.** All case records shall contain quarterly summaries needed for providing services to the child and the family, for planning and for periodic reevaluation.

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000138

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**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**Article 4. Care**

**31379. SOCIAL WORK SERVICES.** The social work services of the institution shall provide a continuing service for children beginning at the intake study of the child and continuing throughout the child's placement and after discharge where after-care social work services are not otherwise available in the community.

**A. SERVICES TO CHILDREN ACCEPTED FOR CARE.**

When a child is accepted for care he shall be assigned a social worker who is responsible for maintaining a continuing relationship with him throughout the placement.

In addition to the social work services made available to the child, appropriate services with the child's family shall be carried on, with the ultimate goal of returning the child to normal family and community living.

Efforts to strengthen family relationships shall be continuous. Ties with parents, relatives and friends shall not be discouraged, except as a part of a carefully considered plan of treatment.

No child shall remain in an institution when he can receive no further benefit from group living, or when group care is no longer the best plan for him.

Discharge shall be individually planned on the basis of the child's needs, with the child himself and parents participating in planning and being aware of the reasons for the plans made.

**B. SOCIAL WORK WITH CHILD.** The social worker in collaboration with the referring agency (if there is one) and parents shall be responsible for helping prepare the child for placement by helping him to understand the reasons for his having to leave his home and for having institutional care selected for him and by arranging for him to visit the group with whom he will reside.

Throughout placement, the social worker shall be responsible for providing direct help to the child in accepting institutional care and in making use of the group living experience to the best of his ability.

The social worker shall work directly with the child as well as with the referring agency (if there is one) and parents in preparing and planning his return to the community. This planning may include day-to-day living, school placement, vocational counseling, job finding, and continuing social work services or psychiatric treatment.

**C. SOCIAL WORK WITH PARENTS.** Throughout the period of intake and placement parents shall have continuing help so that they can maintain a relationship with their child, take as much responsibility as they are able in planning for him, work closely with either the institution or the referring agency, and prepare for the child's return to the family or make other arrangements when necessary or preferable.

The responsibilities of the social worker in working with the parents shall include the following:

1. Help to parents to interpret need for placement to the child.
2. Continued work with parents around placement.
3. Social work help with parent/child relationships.
4. Preparation of parents for termination of child's placement.
5. Social work services after discharge where indicated.

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(Pursuant to Government Code Section 11380.1)

**31381. GROUP LIVING - GENERAL REQUIREMENTS. Staff members who work**

directly with the child shall make a sustained effort to understand him and a conscious effort to meet his individual needs.

The group living experience must not be an isolated living period but must be related to the prior life experience of the child and a preparation for his future.

The day-to-day living experience of each child shall provide emotional security in addition to meeting his physical, medical, educational and recreational needs.

The program shall provide for meeting the child's need for identity and privacy by allowing him to have personal possessions, available time and space for spontaneous activities, and a portion of the building which would represent his own room.

**A. GROUP LIVING PROGRAM.** A living group shall be comprised of a group of children who live together in the same physical unit and who eat, sleep, play and work together under the supervision of one, or more, child care staff members.

The composition of each living group shall be purposefully planned and determined by the nature and severity of the children's problems, their age, and the number of child care staff available at all times. The composition of each living group is periodically evaluated.

There shall normally not be more than ten children in a living group.

**B. DISCIPLINE OF CHILDREN.** Discipline must be regarded as a learning process by which adults help the child to have the experience he needs so that he can learn to live in reasonable conformity with accepted standards of social behavior, and to do so by progressively acquiring and applying his own inner self-controls.

Every institution shall state its rules of discipline in writing and make such written rules available to the staff.

Constructive methods must be used for maintaining group controls and handling individual behavior, e.g., clarification, persuasion, distraction, substitution, interference, removal and restitution.

Discipline shall be administered on an individualized, fair, reasonable and consistent basis and be related to the individual child's misbehavior. Group discipline for misbehavior of one or more members of the group shall be discouraged.

Punishment shall be used only in situations when other means are ineffective and children can benefit by the experience of facing the consequences of unacceptable behavior, not as an end in and of itself, but as part of the learning process.

Children shall not be punished before the group. Corporal punishment, infliction of bodily pain, deprivation of essentials such as meals, monetary allowances, visits from parents, home visits, or any type of degrading or humiliating punishment shall not be used.

No child shall be permitted to punish another child or group of children.

**31383. NUTRITION AND CLOTHING**

**A. GENERAL REQUIREMENTS**

An adequate and nutritionally well-balanced diet, according to the standards of the National Research Council, shall be provided. The meals shall meet the social and emotional needs of the children, and be properly cooked and attractively served.

Three meals shall be served each day unless children obtain lunches at schools. If lunches are obtained at school, information about the general pattern of these lunches shall be obtained and other meals planned accordingly. Some type of after-school snack shall also be provided.

Supervision shall be given at mealtime by staff members.

Food shall be prepared and served under direct supervision of, or in scheduled consultation with, a qualified nutritionist, dietician or licensed physician.

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000140

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(Pursuant to Government Code Section 11380.1)

**31383. NUTRITION AND CLOTHING (Continued)**

**B. MILK SUPPLY.** Only pasteurized milk shall be used.

Institutions having their own dairies shall comply with local and state regulations governing the maintenance of dairies. All cows shall be tested and found free from tuberculosis and undulant fever.

**C. HOME-CANNED FOODS.** All home-canned foods shall be processed in accordance with acceptable procedure for proper home canning.

**D. CLOTHING.** Clothing shall be of current style, becoming, well fitted, clean and of a quality and appearance which will not distinguish the children from the institution from other children in the community. Clothing shall not be of a uniform style which would set a child apart from other children in the school or community.

Each child shall have his own clothing. Used shoes shall not be given to other children.

Children shall participate in the selection and purchase of their own clothing whenever possible and appropriate.

There shall be a written agreement between either the parents or guardians, or the child placing agency and the institution on the plan for the provision of the child's clothing at reception, while under care and at the time of discharge.

**E. PERSONAL CARE.** Each institution shall provide the program, facilities and training necessary for the children's daily needs and the development of sound habits and practices in regard to personal hygiene and general appearance.

**31385. RECREATION.** A well-rounded recreation program shall be available for all children.

The children shall be encouraged to participate in community recreation and group work activities when they are able and ready to do so.

Every child shall have time to be alone if he wishes; places to go where he will not be disturbed and an opportunity to exercise reasonably free choice of activities.

**A. RECREATION FACILITIES.** The institution shall provide needed recreation facilities when the community does not have sufficient recreation facilities to meet the needs of children in the institution, or when the institution is so large that the number of children would overwhelm the community.

**B. RECREATION PROGRAM.** The recreation program shall offer a wide range of both indoor and outdoor activities in which participation can be encouraged and motivated, rather than regimented, on the basis of individual interests and needs.

**C. STAFF RESPONSIBILITIES.** The recreation program's overall planning, staff training supervision and coordination shall be the assigned responsibility of a qualified member of the staff.

Child care workers shall have responsibility for recreation activities as appropriate.

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(Pursuant to Government Code Section 11380.1)

**31387. EDUCATION.**

Each institution shall accept responsibility for the overall education and training necessary for the well-rounded development of each child.

In addition to the academic and vocational education provided by the institution or by community schools, the institution shall provide an opportunity for religious training, training in social customs, experience in normal social activities and experience in working, saving and handling money.

**A. ACADEMIC EDUCATION.** Any child who is able to attend community schools and meet their standards of performance shall be given every opportunity to do so.

School attendance shall conform with the State Education Code.

Children attending a community school shall not be segregated as "institution children" or set apart from other children in any way.

The institution shall accept responsibility for planning with each child for adequate vocational guidance and training in accordance with his individual needs, interests and abilities.

**B. SPECIAL EDUCATION.** Each institution, in accordance with community education resources and/or its own resources, or some combination of these means, shall insure provision of a special education program for children who require this service.

**C. SOCIAL CUSTOMS AND EXPERIENCE.** Day-by-day experiences shall be planned to prepare children for living outside of the institutional setting.

The plans developed shall include opportunities to participate in various social activities, to entertain and be entertained and to learn manners and customary social usages.

**D. RELIGIOUS TRAINING.** Children shall be permitted and encouraged to attend the church of their own and their parents' choice and to participate in church activities.

Attitudes of religious tolerance shall be fostered.

When children of different religious faiths are accepted for care, consideration shall be given to the religious customs of the different faiths.

**E. ECONOMIC EXPERIENCE.** Opportunities for children to learn money values and property rights by experience shall be provided.

Arrangements shall be made for each child to have an allowance, based on a scale according to age and community standards, and the freedom to spend or save that allowance.

When children are given an opportunity to earn money in addition to their allowances, the child labor laws shall not be violated as to the hours of employment, type of occupation, work permits and wages.

**F. HOUSEHOLD DUTIES.** Children shall be given an opportunity to learn to accept a share of responsibility for keeping their home clean, orderly and attractive, both as a means of participation in group living and as a preparation for adult life.

No child shall be used as a substitute for staff.

**G. SEX EDUCATION.** Children shall be helped to develop wholesome attitudes about sex as an integral part of the institution preparation of the child for life and to have accurate knowledge according to their needs and understanding.

Child care workers shall be given appropriate training on responding to the day-to-day children's questions as they arise.

Formal sex education shall be given only by designated personnel, on an individual and group basis, as is appropriate to the child.

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000142

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(Pursuant to Government Code Section 11380.1)

**Article 5. Safety**

**A. Life Safety**

31389.

**FIRE SAFETY.** All institutions for children shall comply with the housing and fire safety laws of the state and the rules and regulations of the State Fire Marshal governing institutions for children.

A fire safety clearance from the State Fire Marshal is required before initial licensing, before renewal licensing and before any change in the terms of the license which affects fire safety, and whenever there is reason to believe that existing conditions jeopardize the safety of the staff or children.

31391.

**DISASTER AND MASS CASUALTY PLAN.** All licensed institutions for children shall have a *written* disaster and mass casualty plan of action in the event of a disaster occurring within the facility, of local disaster occurring in the community, or of state of extreme emergency. It shall include:

1. Designation of administrative authority and staff assignments.
2. Plan for evacuation including
  - a. fire safety plan
  - b. means of egress
  - c. transportation and relocation of residents, when necessary
  - d. supervision of residents after evacuation or relocation
  - e. means of contacting local agencies, i.e., fire department, law enforcement agencies, civil defense and other disaster authorities of local government.
3. Plan for reception of nonresident persons dislocated by disasters and emergencies occurring outside the facility.

All personnel shall be instructed in their duties. Staff instruction shall include practice drills which involve the children at regular monthly intervals. New employees shall be informed immediately of their duties as required in this plan.

The disaster plan shall be approved and reviewed annually by the appropriate fire safety officials and by the local civil defense authority in communities which have an active civil defense organization. Where there is no such organization, the disaster plan will require approval and annual review of only the fire safety authority.

The disaster plan shall be conspicuously posted and kept up to date.

31393.

**SAFETY PRECAUTIONS.** Special precautions shall be taken in the storage and use of paints, oils, and other inflammable materials, poisons, insecticides, drugs, motor vehicles and power equipment.

Care shall be taken to prevent home accidents from such causes as slippery floors, loose rugs, inadequate lighting, improperly protected fireplaces or stairways. Long electric cords or extensions shall not be allowed on the floor in such a way as to present danger of tripping or fire hazards.

31395.

**MOTOR VEHICLES — USE AND MAINTENANCE.** Only licensed drivers shall be permitted to operate motor vehicles provided by the institution. Passengers shall not exceed the rated seating capacity of the vehicle.

Motor vehicles provided by the institution shall undergo regular periodic safety inspection and be maintained in safe operating condition.

31397.

**SWIMMING POOLS.** All state and local laws, ordinances, rules and regulations pertaining to construction, operation and maintenance of swimming pools and recreational facilities shall be observed.

000143

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(Pursuant to Government Code Section 11380.1)

**B. Supervision**

**31399. STAFF REQUIRED.** Each institution, as appropriate to its size and purpose, shall obtain the services of staff in the following general categories: (1) administration, (2) social services, (3) child care, (4) health and nutrition, (5) psychiatric and psychological, (6) education, (7) recreation, (8) clerical, and (9) housekeeping and maintenance.

Any new staff employed or assigned to a new position on the staff of an institution on or after April 1, 1968, shall meet the minimum qualifications for his job classification.

Any professional person whose services are donated to the institution, paid for on a contract or fee basis or made available through an agreement with another agency, shall also meet the minimum qualifications for staff employed in a similar capacity in the institution.

When a position includes a combination of duties, the jobholder must meet substantially the minimum qualification for all job classifications covering the job.

Each institution shall establish a plan to determine its own staffing requirements which at least meets minimum standards.

Nothing in this regulation shall prevent an institution from establishing staffing requirements which are higher than minimum standards.

**31401. CHILD CARE WORKER—STAFFING.** There shall be an adequate number of qualified adults to provide the daily care and supervision needed by the children.

During the children's waking hours staffing for the child care worker, or any other person functioning in this capacity, shall be on a ratio of not less than one on-duty worker to each ten adolescent children and not less than one on-duty worker to each eight pre-adolescents. When the children require special care the number of on-duty workers shall be increased proportionately.

No group of children shall be left without adult supervision at any time.

In order for children to have a relationship with persons of both sexes, men and women shall be employed. Where it is not appropriate to employ child care workers of both sexes, this shall be compensated for by the employment of persons of the other sex in other positions.

**31403. NIGHT SUPERVISION.** A minimum of one responsible adult shall be awake on duty during the children's normal sleeping hours in each institution in which there are 25 or more children residing. This person shall make regular tours of inspection of the physical plant and grounds to insure fire safety.

In each living unit there shall be a responsible adult who is accessible to the children during their normal sleeping hours.

Additional personnel shall be on call to assist the on duty staff in carrying out the institution's established plan for caring for the children in an emergency or disaster.

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(Pursuant to Government Code Section 11380.1)

**C. Health**

31405.

**GENERAL REQUIREMENTS.** Each institution shall maintain and promote the health of the children. Every child shall receive adequate medical care, including preventive care and treatment of illness or defect. The report of medical or psychological examinations shall be included in the child's record and shall serve as a basic part of the treatment plan.

An institution which accepts children for continuing care shall provide a plan for medical care, including admission examination, immunizations, emergency medical care and hospitalization, remedial treatment, preventive care and dental care, a favorable physical and emotional environment, provisions for safety, sanitation and food handling.

Institutions which accept only emergency short-term placements shall provide for admission examinations and emergency medical care, and shall accept responsibility for reporting identified medical needs to the responsible person or agency.

Institutions operated by religious groups depending on prayer or other spiritual means of healing are exempt from the requirements in this section if they limit admissions to children of their own religious faith and have on file for each child, a signed statement from his parent or guardian indicating adherence to or acceptance of such religious belief and requesting that no medical care be provided.

Other institutions which admit children of a religious faith which depends on prayer or other spiritual means of healing shall determine that such children are free from communicable disease by whatever medical tests or examinations deemed necessary by the staff physician, and request that their parents or guardian sign a statement indicating that no medical care is to be given.

31407.

**DIRECTION OF THE HEALTH PROGRAM.** The Institution Health Program shall be under the technical direction of a physician licensed to practice medicine and surgery in California.

31409.

**AUTHORIZATION FOR MEDICAL CARE.** Prior to each child's admission to the institution, authorization in writing shall be obtained from his parents or guardians and the placement agency (if there is one) for medical and surgical care and for hospitalization as required. This is to include consent for emergency medical attention and treatment as required.

Parents shall be contacted if available whenever medical or surgical care is necessary and written permission specifically secured from them for the required care.

Parents, if available, or guardians, and the placement agency (if there is one) shall be kept currently informed of any illness requiring hospitalization.

31411.

**SANITATION.** All applicable laws, rules and regulations on sanitation shall be met.

A sanitation inspection by a local health department is required before initial licensing, before renewal licensing, and whenever there is reason to believe that existing health or safety conditions are a hazard to the staff or children.

31413.

**HOUSEKEEPING STANDARDS.** Housekeeping shall meet an acceptable standard of cleanliness, orderliness and absence of offensive odors.

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**31415. ADMISSION EXAMINATION.** Each child shall be screened for the presence of communicable or contagious disease, or other medical problems, within 24 hours of admission.

Each child shall have a complete physical examination, including visual and auditory screenings, tuberculin test or chest X-ray and other tests as indicated, prior to admission or within seven days following admission.

Tests that may be disturbing to a child, such as vaginal smears and blood tests for syphilis, shall be taken if indicated but not as routine procedures.

The institution shall request the physician making the examination to report the results in writing and in enough detail to show the child's physical condition and development, health history of previous illnesses and immunizations, his freedom from communicable disease and his ability to take part in group activities or schedule of permitted activities when these must be limited, and recommendations for future care, treatment or examinations.

If indicated (and according to the necessity and availability of these services) psychological and psychiatric evaluations shall be made.

**31417. IMMUNIZATIONS.** Each child shall be immunized (unless already completed and noted on the child's record) against

diphtheria, tetanus, poliomyelitis and whooping cough. Booster injections shall be administered within standards set by the State Department of Public Health.

The institution shall make the child's immunization record available to the school on admission, and to the parents or guardians and placement agency on the child's discharge from the institution.

**31419. MEDICAL CARE AND HOSPITALIZATION.** The institution shall provide medical, surgical, hospital and nursing services either through its own facilities or through specific contracts with various community, medical, dental and nursing services, including hospitals.

A physician shall be available for regular visits to the institutions or shall be available for scheduled hours at his office.

Provision shall be made for the correction or treatment of remedial defects or deformities. If another social agency or the child's parents or guardians retain the responsibility, the institution shall notify the agency and parents or guardians of any need for treatment, and plan with the parents, guardians and agency (if there is one) for necessary care.

**31421. EMERGENCY MEDICAL CARE.** Every institution shall have a plan which provides for immediate medical attention and treatment in case of illness, accident or injury to any child under care. The institution shall be prepared to obtain emergency medical care without instructions from parents or guardians in case the parents or guardians cannot be reached immediately or the nature of the illness or injury is such that there should be no delay in getting medical attention.

**31423. AGREEMENT FOR PAYMENT OF HOSPITALIZATION.** If the placement agency or the child's parents or guardians retain responsibility for payment for the child's hospitalization, there shall be an agreement between any one of these parties and the institution on the facilities to be used and the plan for payment for the cost of such hospitalization.

**31425. PERIODIC EXAMINATION.** Each child shall receive a physical examination annually, or at more frequent intervals as recommended by the institution's medical authority.



**CONTINUATION SHEET**  
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**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31427. USE OF MEDICINES AND PRESCRIPTIONS.** Staff members responsible for the care of ill children shall receive training in the proper handling and use of medicines and prescriptions under the direction of a physician and in accordance with procedures that are administratively determined.

**31429. FIRST AID.** First aid supplies shall be readily available for use as prescribed under the direction of the institution's physician and in accordance with procedures that are administratively determined.

**31431. MEDICAL ISOLATION.** Provision shall be made for isolating and caring for a child whose illness requires separation from the group. The isolation shall be in surroundings that are familiar to the child.

Staff shall always be available to give the child appropriate care and attention.

Isolation of each child on admission shall occur only if a child's health warrants this procedure and shall not be practiced on a routine basis.

**31433. CHILD ILLNESS — CHILD CARE WORKER'S RESPONSIBILITY.** The child care workers shall receive training under the direction of a physician or a nurse in recognizing and reporting any signs of illness in the children under their supervision.

**31435. CHILD ILLNESS — DECISION ON SCHOOL ABSENCE.** Each institution shall administratively assign responsibility to an appropriate member of the staff for deciding whether a child is ill enough to be absent from school.

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000147

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**31439. MEDICAL AND PSYCHIATRIC COORDINATION**

Each institution which establishes and maintains a regimen for the use of tranquilizers in the treatment of extreme child emotional disturbance shall maintain coordination between the medical and psychiatric staff in the supervision of the use of such drugs and the course of psychological treatment.

Under the direction of a physician the staff shall receive training in the responsibilities for and the technique in dealing with these situations.

**31441. PSYCHIATRIC SERVICES.** The services of a psychiatrist shall be available for diagnosis, consultation, and psychiatric treatment of children when indicated.

**31443. PSYCHOLOGICAL SERVICES.** The services of a psychologist shall be available to contribute to diagnosis and formulation of treatment plan and for direct work with selected children.

**31445. NURSING SERVICES.** Nursing services shall be available as appropriate to the licensed capacity of the institution and used for care of sick children, for assistance to the physician in providing continuous health supervision, for interpretation of medical, dental and nutritional recommendations to other staff and children and for follow up on medical and dental recommendations.

**31447. DENTAL CARE.** Dental care shall be provided by the institution, by the placement agency responsible for the child or the child's parents. This shall include: an examination as soon as practical after admission of the child for care; treatment, including necessary prophylaxis, orthodontia, repairs and extractions when indicated; and annual reexaminations.

If the institution does not retain a staff dentist, the dentist shall be retained on a contractual basis and available as necessary.

If the placement agency or the child's parents or guardians retain responsibility for payment of dental care, there shall be a written agreement between the party and the institution for payment for the cost of dental care.

**31449. HEALTH EDUCATION.** Children shall be taught attitudes and habits conducive to health, through daily routines, example, and discussion and shall be helped to understand the principles of health and hygiene.

**31451. MEDICAL RECORDS.** An individual medical record shall be kept for each child.

When medical records are kept in the doctor's office or infirmary, pertinent information shall be included in the child's case record.

An institution shall furnish the child's school appropriate medical records as required by a school.

Medical records as appropriate shall be released to the parents, guardians and the placement agency (if there is one) when the child is discharged from the institution.

000148

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**FILING ADMINISTRATIVE REGULATIONS**  
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(Pursuant to Government Code Section 11380.1)

**Article 6 Buildings and Grounds**

**31453. LOCATION.** The institution shall be located in an area which affords participation in community life; which is accessible to schools, hospitals, churches, welfare services, as well as medical, psychiatric, recreational and cultural facilities; and where it is possible to maintain communication between the child and his family.

Institutions shall not be located in remote rural areas, nor in deteriorated, unpleasant or potentially hazardous urban areas. Areas with extremely heavy traffic, excessive noise, smoke or disagreeable odors shall be avoided.

The site shall be in an area which insures safe and sufficient water, adequate drainage and sewage disposal, good fire protection and access to public transportation.

**31455. GROUNDS.** The grounds shall have sufficient outdoor space for active play. Safe play equipment suitable to the ages and interests of the children shall be provided.

The amount of outdoor space necessary will vary with the size, location, the age and sex of the children accepted for care.

**31457. GENERAL BUILDING REQUIREMENTS.** Buildings shall be comfortable, designed for children's use and suitable for the program. The building shall be designed for children to live in small groups.

**31459. NEW BUILDINGS.** After April 1, 1968, new buildings and buildings used for the first time by the children's institution shall conform fully with the rules and regulations of the State Department of Social Welfare. This regulation does not apply to a building or buildings in continuous use prior to April 1, 1968.

A children's institution shall notify the State Department of Social Welfare of the intent to occupy a building not previously used by the children's institution, and shall secure approval from the department before purchase or lease is completed.

**31461. EXISTING BUILDINGS.** A building or buildings in continued use prior to April 1, 1968, of a licensed institution shall be in substantial conformity with the rules and regulations of the State Department of Social Welfare.

**31463. SUBMISSION OF BUILDING PLANS FOR NEW CONSTRUCTION, ADDITIONS OR ALTERATIONS.** Plans for new buildings or additions or major alterations to existing buildings to be used for providing housing or other services to children shall be submitted to the department for review and approval before construction is started.

Plans shall be prepared by either a licensed architect, registered civil engineer or structural engineer. Fire codes and building codes used in the design of the building shall be noted on the plans.

Certification by the architect or engineer, or by the local building official, that the plans meet the building construction standards of the codes mentioned shall accompany the plans.

As new institutions are built and existing ones are remodeled or replaced, provision shall be made for the type of architectural plan best suited to the child care program.

**31465. HEATING.** Adequate, safe and easily-controlled heating shall be provided for all living and sleeping quarters.

Fireplaces and open-faced heaters shall have metal screens.

Gas heaters shall be vented and installed with rigid pipe connections. Kerosene heaters will not be approved.

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**31467. FACILITIES FOR ADMINISTRATIVE SERVICES.** A private office shall be provided for the executive director and, as appropriate, for social workers and other professional staff.

Separate space shall be available for reception, visiting, and waiting purposes.

Office space shall be provided for business, clerical, managerial and service staff.

**31469. KITCHEN.** The size of the kitchen and amount of equipment shall be adequate for the number of persons to be served.

If the kitchen and dining room are on different floor levels, provision shall be made for transporting the prepared food and keeping it at the proper temperature.

Adequate refrigeration for the protection of perishable foods shall be provided. All food shall be protected from insects and rodents.

Cooking utensils shall be in good condition and without defects, chips or cracks. Granite or enamel kitchen utensils shall not be used. Adequate provision for cleaning this equipment shall be made.

Dishes shall be stored in a clean dry place and protected from flies, dust or other contamination.

Proper disposition shall be made of garbage and trash.

Employees handling food or others assisting in the kitchen shall wear clean apparel and give special care to cleanliness of hands and forearms.

**31471. STORAGE ROOMS AND CLOSETS.** All storerooms and closets used for food shall be dry, well lighted and ventilated and shall offer protection from mold, vermin and rodents.

Proper storage of first aid supplies and other prescribed medications shall be provided in locked cupboards not accessible to the children.

Closets or storerooms shall be available and conveniently located for storage of cleaning equipment, linens, extra equipment, furniture, etc.

**31473. LIVING ROOMS AND RECREATION ROOMS.** There shall be at least one centrally located living room for the free and informal use of the children. In large institutions additional living rooms shall be provided to accommodate the number of children in care.

Institutions built on the cottage plan shall have a living room in each cottage.

Living rooms shall be large enough to accommodate the group to be served without crowding.

Living rooms shall be comfortably and attractively furnished, well heated, lighted and ventilated, and clean and cheerful. Furnishings shall be substantial, suitable for use by children, and in good taste.

Living rooms shall be available to children for their own relaxation and for entertaining friends and relatives.

Recreation rooms shall be provided according to the needs of the group served.

**31475. LIBRARY AND STUDY ROOMS.** Every institution shall have some space set aside furnished and equipped for quiet reading and study.

The room shall be well lighted and ventilated.

Books suitable for the cultural interests, educational needs and recreational interests of the children, and current magazines and newspapers shall be provided.

**31477. SCHOOL ROOMS.** When school classes are conducted on the premises, school rooms shall provide adequate light and ventilation, appropriate equipment (desks, seats, tables) and teaching materials.

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31479. **DINING ROOM.** An attractive, well lighted and properly ventilated dining room (or rooms), large enough to accommodate the children, the staff and guests comfortably shall be provided. Approximately fifteen square feet of floor space per person is necessary.

Dining areas shall be convenient to the kitchen so that food may be served quickly and easily, and close to the general living rooms.

In institutions with a central kitchen, food shall be transported to the dining area in suitable equipment.

Silverware and attractive dishes shall be used. Cracked or chipped dishes and glassware shall not be used because of health hazards. The use of tin, aluminum, granite or enamel dishes or cups is not acceptable.

Floors shall be covered with an attractive, easily cleaned, nonabsorbent, nonslippery material.

Tables and chairs are to be of suitable height for the children using them. Tables are to accommodate from four to eight persons.

31481. **BEDROOMS.** Sleeping rooms for the children shall be comfortable and attractive.

All sleeping rooms shall be located near lavatory, bath and toilet facilities.

Every room shall have at least one outside window. A window opening on an enclosed porch is not considered an outside window. In general, window space shall be at least equal to one-eighth of the total floor area of the room but shall not be less than 16 square feet.

Sleeping rooms shall be comfortably furnished.

Provisions shall be made for proper care of clothing and personal belongings.

Ample, well-lighted closet space shall be provided for each child. Clothes racks and shelves shall be within easy reach of the children.

Each child shall have a locker, dresser, or other storage space for his own private use, conveniently located in or near his sleeping room.

Each child shall have his own bed, equipped with good springs, clean, comfortable mattress, pillow (if desired) and lightweight, warm bedding. Rubber sheeting shall be provided when necessary.

The use of double-deck bunk beds is permitted only with the express approval of State Department of Social Welfare.

Linen shall be changed once a week and more often when necessary.

31483. **SIZE OF BEDROOMS.** In buildings in continued use by a licensed institution, on and before March 31, 1968, the size of bedrooms shall conform to the following requirements:

1. A room for one person shall provide at least 630 cubic feet of air space, a room for two persons at least 810 cubic feet, and a room for three or more, 500 cubic feet for each additional person.

2. In rooms accommodating more than one child, beds shall be placed at least three feet apart on all sides.

In new buildings and buildings which are used by a licensed institution for the first time on and after April 1, 1968, the size of bedrooms shall conform to the following requirements:

1. Bedrooms for single occupancy shall have a minimum of 90 square feet of superficial floor area, and there shall be a sufficient number of bedrooms for single occupancy to provide privacy for children who need it.

2. Bedrooms for multiple occupancy shall accommodate not more than four children and contain not less than 70 square feet per child, with a minimum of three feet between beds.

000151

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**31485. BATH, LAVATORY AND TOILET FACILITIES.** At least one toilet and wash basin shall be provided near living rooms and recreation areas.

Bath and toilet facilities shall be provided in each building which contains sleeping rooms and shall be convenient to these rooms.

Separate bath and toilet facilities shall be provided for boys and girls and each unit shall insure privacy.

All bath and toilet facilities shall be properly lighted and ventilated with clean, washable floors and walls of material which is non-absorbent and not slippery.

Each child shall have his own toilet articles, including toothbrush and comb, and shall be provided with clean towels and wash cloths at regular intervals.

Space for individual storage of toilet articles shall be provided in the bathrooms. Each child's towels and wash cloths shall be placed within reach of the child, and sufficient space allotted to permit quick drying and separation from those of other children.

Mirrors at proper levels and in sufficient quantity to be easily accessible to all children shall be provided in the bathrooms.

The ratio of bath, lavatory and toilet facilities to children shall conform to the following requirements:

1. In buildings in continued use by a licensed institution on and before March 31, 1968, there shall be a minimum of one toilet to every eight to ten children; one wash basin with hot and cold running water for every four or five children; and one tub or shower for every eight or ten children. If showers are generally used, at least one tub shall be available.

2. In new buildings and buildings which are used by a licensed institution for the first time on and after April 1, 1968, there shall be a minimum of one toilet for every four children; one wash basin with hot and cold running water for every four children; and one tub or shower to serve every four children. If showers are generally used, at least one tub shall be available. Large congregate bath, lavatory and toilet facilities shall not be acceptable.

**31487. LAUNDRY AND SEWING ROOMS.** Unless a commercial laundry is used, provision shall be made for the children's personal laundry, and for the institution laundry.

Space shall be provided for sorting and mending linens and children's garments.

All laundry and sewing rooms shall be properly lighted and ventilated.

**31489. RESIDENT STAFF QUARTERS.** In new building or buildings which are used by a licensed institution for the first time on and after April 1, 1968, each unit is to have at least one room specifically used for the use of the resident staff. This room shall afford privacy, be appropriately furnished and equipped with private bath, lavatory, and toilet. This regulation does not apply to a building or buildings in continuous use prior to March 31, 1968.

**31491. EMPLOYEES' WASH ROOMS.** Cloakrooms, lockers, toilets and wash basins shall be provided for employees convenient to the kitchen and other workrooms. No toilet shall open into a room in which foods are cooked or stored, however.

000152

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

4  
**SUBCHAPTER 4. MATERNITY HOMES**

**Article 1. Administration**

**31751. ORGANIZATION.** The organization of every maternity home shall be such that legal responsibility is clearly defined and administrative authority specifically placed.

To insure local citizen participation in the administrative process, each maternity home shall have a local lay Board or Advisory Committee.

**31753. INCORPORATION.** Maternity homes subject to license by the State Department of Social Welfare must be operated by a non-profit organization incorporated in accordance with Division 2, Part 3, Sections 10200-10208 of the Corporations Code of California.

A copy of the Articles of Incorporation shall be filed with the State Department of Social Welfare.

Maternity homes operated under the auspices of a national organization or religious order need not be incorporated separately, if the operation of maternity homes is a function mentioned in the Articles of Incorporation issued to the parent-body.

**31755. CONSTITUTION AND BYLAWS—ESTABLISHMENT.** Each maternity home shall have a constitution and bylaws which provide for control by a responsible governing body and fulfill the requirements established in this chapter.

When a home is served in an administrative or advisory capacity by more than one citizen group (whether on a national, territorial or local level), a separate constitution and bylaws shall be established to govern the activities of each Board and/or Advisory Committee.

A copy of each constitution and bylaws, including those of the final administrative authority, shall be filed with the State Department of Social Welfare.

**31757. CONSTITUTION AND BYLAWS—CONTENT.** Each constitution and bylaws shall contain the following information:

1. The name of the organization, or citizen group whose activities will be controlled by this document.
2. The purpose of the organization, including a broad definition of the individuals to be served and the services to be provided.
3. The relationship of this group to the general membership and/or auxiliary groups, if such exist.
4. The location of final administrative authority for the operation of the maternity home, with specific mention of responsibility for the employment of staff.
5. The powers and duties of the Board or Advisory Committee to be governed by this document with any delegation of responsibility clearly defined.

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000153

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**31757. CONSTITUTION AND BYLAWS--CONTENT. (Cont'd)**

6. The size, composition, and the methods of selecting this Board or Advisory Committee, and the term of office established for its members.

7. The officers and committees to be designated, the method of their selection, their term of office and their duties.

8. The time, place and frequency of meetings, and the number necessary for a quorum.

9. The methods for financing the maternity home.

10. The methods by which change in the constitution and bylaws can be effected.

Each constitution which governs the activities of a local lay Board or Advisory Committee serving a maternity home exclusively, shall also make provision for the executive of the maternity home to attend all meetings of this Board or Committee. An exception may be provided for meetings held to evaluate the job performance of the executive or discuss the selection of her successor. If such exceptions are made, other sections of the constitution shall require that the Board or Committee share with the executive, any evaluation of her performance previously discussed in a closed meeting.

The constitution governing the activities of an Advisory Board or Committee shall also define the channels through which its actions must proceed for review and approval.

**31759. LOCAL BOARDS AND ADVISORY COMMITTEES--  
BASIC REQUIREMENT.** Each maternity home shall have a local lay Board or Advisory Committee whose functions do not include provision of any other service or the operation of any other facility.

If a local Board (advisory or administrative) serves other facilities or programs operated under the same organization, an Advisory Committee must be established to serve each maternity home for which the Board has responsibility.

**31761. LOCAL BOARDS AND ADVISORY COMMITTEES--  
FUNCTIONS.** Each local Board or Advisory Committee shall maintain a close relationship with the executive and accept responsibility for:

1. Learning about the quantity and quality of service currently provided by the maternity home.

2. Continual evaluation of these services to determine their effectiveness in meeting the needs of the individuals served and of the community.

3. Frequent review of policy which governs the practice of the maternity home to determine its applicability to current needs and standards.

4. Development of policy which can be adopted as a basis for improved practice, or recommended to the appropriate administrative body.

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000154

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WITH THE SECRETARY OF STATE**

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**31761. LOCAL BOARDS AND ADVISORY COMMITTEES—  
FUNCTIONS. (Cont'd)**

5. Interpretation of community interests and attitudes to staff.

6. Interpretation of the maternity home's services and needs to the general public, and to specific groups which may provide funds or may need its services.

7. Participation in community planning of welfare services and in coordination of services.

Local administrative Boards must accept the following additional functions:

1. Determination of the major goals of the maternity home.

2. Formal establishment of policy to govern the program of the maternity home.

3. Responsibility for financing and budget planning.

4. Selection of a qualified executive to whom details of administration can be delegated, and with whom planning activities can be shared.

5. Development of criteria for evaluation of the job performance of the executive, and acceptance of responsibility for periodic evaluation of the executive in accordance with the criteria established.

6. Provision of channels for sharing with total staff, responsibility for policy formulation, for determination of major goals and development of plans for achieving them.

7. Responsibility to the community for the establishment and maintenance of acceptable standards of service.

8. Representation of the maternity home in its contacts with national and local programs of a related nature.

**31763. LOCAL BOARDS AND ADVISORY COMMITTEES—  
COMPOSITION AND METHOD OF SELECTION.** No member of the staff of a maternity home and no person whose financial interests could be served by the maternity home shall be eligible to membership on a local lay Board or Committee.

**31765. LOCAL BOARDS AND ADVISORY COMMITTEES—  
MEETINGS.** Local Boards or Advisory Committees shall hold at least ten regular monthly meetings a year.

Minutes of meetings held by a local Board or Advisory Committee serving a maternity home exclusively shall be kept and made available to the State Department of Social Welfare. On request, local Boards which serve other facilities also, shall make available to the department, minutes pertaining to the maternity home.

**31767. POLICIES—BASIC REQUIREMENTS.** Each maternity home shall have written statements which define its personnel policy and govern its program of services.

Policy statements initiated on a local level shall be formally approved by the local lay Board or Advisory Committee and by any other appropriate Board or administrative authority.

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**31769. POLICIES—PERSONNEL.** The local Board or Advisory Committee shall establish or compile a written statement of policy which conforms with the regulations in these sections.

If personnel practice is governed by policy established at different levels, the policy statement shall include under each required topic, all applicable policy established by the local Board or Advisory Committee, by the national organization and/or by its subdivisions.

If policy has not been established for a required topic, the policy statement shall reflect this fact.

The policy statement shall be made available to any member of the staff.

**31771. POLICIES—PROGRAMS.** For each service required by this Chapter, the local Board or Advisory Committee shall establish or compile a written statement of policy which defines:

1. The purpose of the Service.
2. The administrative framework for providing the service.
3. The conditions under which it will be made available.
4. Whether the service will be provided by the maternity home or secured from another agency.

The policy statement for each service must include all applicable topics and conform to the regulations in these sections.

The executive shall develop or cause to be developed, written statements which define for staff, the procedures to be utilized in implementing established policy. These procedures shall be designed to insure a desirable quality of service, a coordination of services, conservation of staff time and a reliable and predictable standard of practice.

The practice of staff and the interpretation of program shall be in conformity with established policy and procedure.

**31773. FINANCES—BASIC REQUIREMENT.** Sufficient funds shall be available at all times to assure adequate care in accordance with:

1. The purposes of the maternity home.
2. The type of program and services planned.
3. The regulations of the State Department of Social Welfare.

000156

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**31775. FUND RAISING.** An appropriate Board and/or Advisory Committee shall be responsible for securing adequate operating funds. This shall not be a responsibility of the executive.

**31777. BONDING OF EMPLOYEES.** Any person (usually the treasurer, executive and bookkeeper) responsible for handling funds shall be bonded, unless a competent national organization or religious order guarantees the replacement of any shortage of funds.

**31779. FINANCIAL PROCEDURES—BUDGET.** Prior to the beginning of each fiscal year, an itemized annual budget shall be prepared and approved by the local Board and/or Advisory Committee and if necessary, by other appropriate administrative authorities.

The final budget adopted shall govern the financial operation of the maternity home.

**31781. FINANCIAL RECORDS.** Financial records shall be established and maintained in sufficient detail to show clearly (1) the amounts and sources of all income and (2) the nature and amount of all expenditures, assets and liabilities.

These records shall include itemized accounts which show for each budget item, the annual allocation and the total expenditures to date.

All financial records of the maternity home shall be available for review by the State Department of Social Welfare.

**31783. AUDIT.** All accounts shall be audited annually by a certified public accountant who is not a member of the Board or Advisory Committee and is not otherwise employed by the maternity home or the national organization under whose auspices it operates.

**31785. STATISTICAL RECORDS.** Statistical records shall be established and maintained in sufficient detail to allow tabulation of the following:

1. The number of girls for whom service was requested (personally or by another person).
2. The total number of girls accepted for service.
3. The age, race, religion, legal residence, marital status and occupation of each girl accepted for service.
4. The number of girls who received a particular type of service (i.e., residential care, nonresident living arrangements, medical care, other professional services etc.).
5. The duration of care (i.e., days of care).
6. The number of infants born to the girls served.
7. The number of deaths (girls and/or infants).
8. Any other information which the Board or other administrative authority may require.

000157

Effective

**CONTINUATION SHEET**  
**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31787. FEE SCHEDULE.** Each maternity home shall establish a fee schedule to be used in determining the amount of reimbursement each girl will be expected to make for the services she receives. Separate fees must be established for different types of service (residential care, medical care, etc.).

**31789. CASE RECORDS BASIC REQUIREMENT.**

Each maternity home shall establish and maintain an adequate record for each girl who requests its services or is referred by another person or agency.

**31791. CONTENT OF CASE RECORDS.** Case records of girls accepted for service shall include the following material:

1. Face sheet information: full name, birth date, address, race, religion, education, occupation; names and addresses of parents and other relatives if known; name and address of alleged father if known; legal custody if applicant is minor; and name of any referring agency.
2. Other identifying information which may be of value in later years (i.e., appearance and characteristics of the girl and the alleged father; significant background information, etc.).
3. The intake process, promptly recorded, with whatever appears important for diagnosis and treatment included.
4. Selective recording of diagnostically significant information obtained in casework interviews with the individual girl, her parents, the father of her child and other individuals concerned with her welfare.
5. Brief recording of diagnostically significant information received from other persons about the behavior, adjustment and plans of the girl, and events which have importance for her and her baby.
6. Reports or summaries of physical examinations and psychological tests, if given.
7. Summary recording of case conferences held with other members of the staff and with representatives of other agencies, including all recommendations made for care and treatment of the girl or her baby.
8. Information regarding the baby, including the date of delivery; information about the delivery experience; the name, sex and health of the baby; and any information relative to significant events, such as baptism, etc.
9. Correspondence of permanent value, referral summaries, financial and other agreements, etc.

**31793. PROTECTION OF CASE RECORDS.** Case records shall be kept in a locked file available to members of the professional staff only.

Great care shall be taken to impress on all members of the staff, the confidential nature of case records.

While in current use, medical records may be maintained separately for the convenience of medical and nursing staff. After a girl and her child are discharged, however, these records must be placed in the case record to form a complete history of the maternity home's contact.

**31795. RETENTION OF CASE RECORDS.** The maternity home shall keep permanently all case record material which contains identifying information or social or medical history regarding each mother and child unless it has verified the fact that legal adoption has been completed, and that the same information is available in the adoption record. Even then, the maternity home must permanently retain identifying information, the dates of service, the name and address of the agency which handled the adoption and whether it was an independent or relinquishment adoption.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31797. MEDICAL AND NURSING RECORDS.** Medical and nursing staff shall establish and maintain the following records:

1. A medical record for each pregnant girl or unmarried mother who received a medical service from the maternity home. This record shall include her health history before and after acceptance for care and a record of the medical and nursing care received.

2. A complete medical record and health history for each infant born in or brought to, the maternity home. This shall include duration of labor; type of delivery (and whether an instrument delivery); whether baby received oxygen and if so, for how long, and any other significant information regarding labor, delivery, medication and medical care while in the maternity home.

**31799. BIRTH REGISTRATION.** For all infants born in the maternity home, the physician in attendance shall complete the birth certificate required by Chapter 3 of Division 9 of the Health and Safety Code, and cause the required form to be filed with the appropriate registrar of vital statistics.

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000159

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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**Article 2. Personnel**

**31801. BASIC REQUIREMENT.** The staff of each maternity home shall be sufficient in number and competence to provide a quality of service which can meet the needs of the individuals it serves.

**31803. PERSONAL QUALIFICATIONS—ALL STAFF.** All staff serving the maternity home shall demonstrate (through interviews, employment and personal references, and subsequent job performance) possession of the following personal attributes:

1. A warm and friendly manner, a sense of humor, a genuine liking for people and a capacity to establish positive relationships with them.
2. Sufficient intelligence to understand the objectives of the maternity home, and to perform the duties assigned.
3. Mental and emotional stability, personal integrity and freedom from any serious character defect.
4. Sufficient physical vigor to perform assigned duties.
5. Attitudes that are generous, nonpunitive and reflect a basic respect for individuals and an acceptance of their differences. Non-punitive attitudes toward members of the opposite sex and toward sex deviations are of particular importance.
6. Acceptance of the maternity home's objectives.

**31805. STAFF REQUIRED.** Each maternity home shall obtain the services of staff in each of the following general classifications: (1) executive; (2) medical staff; (3) nursing staff; (4) casework staff; (5) group work staff; (6) psychiatric and psychological specialists; (7) clerical staff and (8) housekeeping and maintenance staff. Any person employed by or assigned to the staff of a maternity home shall meet the minimum qualifications for his job classification.

Any professional person (physician, nurse, caseworker, psychiatrist, psychologist, chaplain, etc.) whose services are donated to the maternity home, paid for on a contract or fee basis, or made available through an agreement with another agency, shall also meet the minimum qualifications for staff employed in a similar capacity. This requirement is not applicable when psychiatric and/or psychological services are provided by a mental hygiene or child guidance clinic.

When a position includes a combination of duties, the person assigned to the position must meet fully, the minimum qualifications for all job classifications from which his duties are derived (e.g., Assistant Director fulfilling the duties of a Casework Supervisor, etc.).

Any person employed in (or assigned to) a job classification must meet fully the minimum qualifications for that classification, even though his job assignment does not include all of the duties listed for the classification.

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000160

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31807. EXECUTIVE.** Each maternity home shall have an executive who performs the following duties and possesses in substantial degree, the qualifications listed below:

**Duties**

1. Administers the maternity home in accordance with established policy and budget limitations.
2. Attends regular meetings of the local Board or Advisory Committee, serves as ex officio member of all Board committees and consults with Board members to keep them informed of the objectives, needs and program of the maternity home and to suggest new policy or revision of existing policy for Board consideration.
3. Develops an administrative plan and procedures to insure clear definition of lines of responsibility, equitable workloads, adequate supervision and harmonious working relationships.
4. Selects, assigns, promotes and dismisses staff in accordance with established personnel policy.
5. Assumes leadership in staff development and stimulation.
6. Establishes and maintains good working relationships with other social agencies and health facilities, and assumes an active role in community planning to develop needed services.
7. Engages in continuous public interpretation of the maternity home program through written material, speeches, etc.
8. Prepares monthly reports, an annual report and a tentative annual budget.

**Personal Qualifications**

1. Age and state of health which permit vigor and vitality and a youthful point of view.
2. Warmth of personality and a satisfying philosophy of living.
3. Sufficient emotional maturity to insure freedom from anxiety and irritability under pressure, and ability to exercise sound judgment, even in moments of crisis.
4. Deep and sympathetic understanding of the problems involved in pregnancy out of wedlock and in unmarried motherhood, plus an ability to work successfully with individuals and groups.
5. True identification with the objectives of the maternity home and deep conviction about the value of its service.

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000161

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**FILING ADMINISTRATIVE REGULATIONS**  
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**31807. EXECUTIVE. (Cont'd)**

6. Ability to establish and maintain a homelike atmosphere in an institutional setting, and to facilitate the relationships essential to constructive group living.

7. Clear understanding of the functions of each employee of the maternity home (including the professional staff) and knowledge of the procedures necessary to prepare a budget, to compile needed statistics, and to operate the maternity home on a sound financial basis.

8. Ability as an administrator, with capacity to accept authority and to delegate it wisely; to inspire Board and staff to develop and implement sound policy and program; to analyze, evaluate and interpret the program of the maternity home; to integrate its services with the total community program for unmarried mothers; and to give leadership to community efforts to provide more adequate services for unmarried mothers.

**Education and Experience**

1. A minimum of three years of successful experience in social work, nursing, psychology or education.

2. Demonstrated understanding and acceptance of modern concepts and techniques in social work.

**31809. ASSISTANT EXECUTIVE.** If the maternity home establishes a position with this title, the assistant executive shall possess in substantial degree, the personal qualifications required for an executive, and show potential executive ability.

An assistant executive shall also have the following education and experience:

1. A minimum of two years of successful experience in the field of social work, nursing, psychology or education.

2. Demonstrated understanding and acceptance of modern concepts and techniques in social work.

When there is no assistant director, a suitably qualified person shall be designated to act for the executive in her absence, and to provide administrative assistance within her area of competence.

**31811. MEDICAL STAFF.** Each maternity home shall have the services of a physician whose duties include the following:

1. Serves as a member of the Medical Advisory Committee and recommends to that committee, policy which will insure an acceptable quality of medical services.

2. Develops and recommends to the executive, appropriate procedures to insure (a) the availability of the medical service mandated by policy (b) the maintenance of adequate and complete medical records and (c) the coordination of medical services with casework and other specialized services.

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000162

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WITH THE SECRETARY OF STATE**

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**31811. MEDICAL STAFF. (Cont'd)**

3. Assists the executive in securing the services of physicians and specialists needed to implement the medical program.

4. Develops and recommends to the executive, an annual budget for the medical program, and assumes responsibility for ordering medical supplies and equipment within the limitations of the current budget.

5. When appropriate to the staffing pattern (a) assigns equitable workloads to the medical staff; (b) arranges conferences in which the medical and nursing staff can discuss administrative and medical problems and (c) provides consultation when needed by the medical staff or secures it from specialists.

Each member of the medical staff serving girls or infants receiving care in the residential quarters or an outpatient service, must be a graduate of a medical school approved by the Council on Medical Education and Hospitals of the American Medical Association and be licensed to practice medicine in California.

Medical staff serving the hospital unit of a maternity home only, shall meet the standards established by the State Department of Public Health.

**31813. NURSING STAFF—BASIC REQUIREMENTS.** Each maternity home shall obtain the services of one or more nurses.

Any nurse assigned to these duties shall be a graduate of an accredited school of nursing, currently registered with the Board of Nurse Examiners of the State Department of Professional and Vocational Standards.

Nursing staff serving a hospital unit only, shall meet the standards established by the State Department of Public Health.

**31815. SUPERVISING NURSE (OR OTHER APPROPRIATE TITLE).** Each maternity home shall have one nurse whose duties include the following:

1. Serves as a member of the Medical Advisory Committee and recommends to that committee, policy which will insure an acceptable quality of nursing service and health instruction.

2. Develops and recommends to the executive, appropriate procedures to insure (a) the availability of the nursing service and health instruction mandated by policy; (b) the maintenance of adequate nursing records and (c) the coordination of the nursing program with medical, casework and other services provided by the maternity home.

3. Develops and recommends to the executive, an annual budget for the nursing program, and assumes responsibility for ordering nursing supplies and equipment within the limitations of the current budget.

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000163

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**31815. SUPERVISING NURSE (OR OTHER APPROPRIATE TITLE) (Cont'd.)**

4. If other nurses are assigned to the residential quarters, (a) assists the executive in securing qualified nursing staff, (b) assumes responsibility for their work assignment and supervision and (c) arranges conferences with the medical staff to discuss administrative and nursing problems.

A nurse who performs the above duties shall have the following qualifications:

1. Three years of nursing experience including (a) some experience which demonstrates administrative, supervisory and teaching ability and (b) one year of obstetrical nursing with responsibility for the care of infants.

2. Knowledge of the principles, techniques, methods, literature and new developments in the field of general nursing, and of those peculiar to obstetrical nursing and to the care of infants.

3. Knowledge of administrative, supervisory and teaching practice and procedure, ability to translate such knowledge into policies and practice and to develop good working relationships with other staff.

If a nurse responsible for the duties listed in this section also provides a direct service to girls accepted for residential care or for an outpatient service, she must have in addition, the personal qualifications required for a nurse.

**31817. NURSE (STAFF).** Each maternity home shall have one or more nurses who perform appropriate duties in the residential quarters.

Each nurse who provides a direct service to girls and/or infants in the residential quarters shall have the following personal qualifications:

1. Ability to function in a teamwork relationship with other members of the staff and to share responsibility for the care of a child with his mother.

2. Ability to understand the various emotional reactions of pregnant girls and unmarried mothers, to form supportive relationships with them to alleviate the fear of childbirth and to detect abnormalities which indicate the need for referral to a physician and/or a caseworker.

**31819. NURSE'S AID OR PRACTICAL NURSE.** When assigned to the residential quarters, a person in this classification shall perform specified duties under the supervision of a physician or nurse. Such persons shall have the following minimum qualifications:

1. Graduation from high school or completion of an accredited course in practical nursing.

2. Ability to learn and to work under supervision.

3. Ability to maintain friendly relationships with girls resident in the maternity home or receiving an outpatient

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**31819. NURSE'S AID OR PRACTICAL NURSE (Cont'd.)**

service, without assuming the assigned function of other members of the staff.

**31821. CASEWORK STAFF—BASIC REQUIREMENTS.** Every maternity home shall employ, or, otherwise secure the services of one or more caseworkers.

When the maternity home does not have a Casework Supervisor, at least one member of its staff shall meet the qualifications for that position. (Exception: this requirement is not applicable when another agency agrees to provide casework services for the maternity home.)

All casework staff serving the maternity home shall have the following personal qualifications:

1. Deep and sympathetic understanding of the problems involved in pregnancy out of wedlock and in unmarried motherhood; acute awareness of own feelings about sexual deviation, illegitimacy, adoption and related problems; freedom from any personal need to impose own values on persons served, particularly in areas relative to the future of a child; true respect for individuals and a firm conviction about their right of self-determination.

2. Unusual sensitivity to the feelings of others; ability to establish a professional relationship quickly and capacity to sustain a relationship which can become the basis for a helping process.

3. Ability to work comfortably within the framework of established policy and procedure; and to function in a teamwork relationship with other members of the staff and with employees of other social agencies.

**31823. CASEWORK SUPERVISOR.** If this classification is used, the duties of the person assigned shall include the following:

1. Serves as a member of the Medical Advisory Committee and recommends to that committee policy needed to coordinate the casework service with the medical and nursing service provided for girls served by the maternity home.

2. Develops and recommends to the executive, any needed changes in policy which governs the casework service, or is administered in whole or in part, by the casework staff (e.g., admission policy, application of fee schedule, etc.).

3. Secures accurate information about the services provided by other agencies and when indicated, assists the executive in developing or revising interagency agreements.

4. Develops and recommends to the executive, appropriate procedures to insure (a) a desirable quality of casework service (b) the maintenance of adequate case records and statistical records and (c) the coordination of casework services with other services of the maternity home.

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WITH THE SECRETARY OF STATE**

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**31823. CASEWORK SUPERVISOR (Cont'd.)**

5. If requested by the executive (a) assists in securing qualified caseworkers when vacancies occur (b) prepares reports and written material (c) interprets the program and/or casework service of the maternity home to the local Board, to Board committees, to other agencies or to the public and (d) represents the maternity home at meetings of social agencies or social workers.

6. Assumes responsibility for (a) the work assignment and supervision of casework staff and (b) arranging individual and group conferences with other staff in the maternity home and in other agencies.

7. If responsible for supervision of group work staff, assumes responsibilities for that program and staff, similar to those listed above.

A Casework Supervisor or a caseworker with supervisory responsibilities shall have the following qualifications:

1. Successful completion of a two-year curriculum in social casework or in social group work in a graduate school of social work accredited by the Council on Social Work Education.

2. A minimum of three years within the last ten years of successful paid experience in the field of family or child welfare with some experience in work with unmarried mothers and in planning, supervising and coordinating the work of other caseworkers. Two years' experience as a social group worker in a maternity home may be substituted for two years of the required paid experience if all other qualifications can be met.

3. Knowledge of the casework process, medical information, and social work literature, including that relating to casework with unmarried mothers.

4. A good working knowledge of supervisory and administrative practice, with ability to formulate policy and procedure; to plan and direct the provision of sound casework services; to secure effective service from casework staff; to develop good working relationships with other social agencies and community groups; and to interpret the program of the maternity home effectively.

**31825. CASEWORKER.** Each maternity home shall have one or more caseworkers who provide under supervision, a casework service as provided in these regulations.

Caseworkers not employed by the maternity home in this capacity on November 15, 1954, shall have the following minimum qualifications:

1. Completion of at least one-half of the curriculum in social casework in a graduate school of social work accredited by the Council on Social Work Education.

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000166

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**31825. CASEWORKER. (Cont'd.)**

2. A minimum of two years within the last ten years of successful full-time paid employment in a casework capacity in the field of family or child welfare, with some experience in working with unmarried mothers; or a minimum of one year's experience of this type if the full curriculum of an accredited graduate school of social work had been completed.

A caseworker responsible for the supervision of one or more members of the casework staff shall meet the qualifications for a Casework Supervisor.

**31827. GROUP WORK STAFF—BASIC REQUIREMENTS.** Every maternity home shall secure the services (through employment, assignment or other arrangements) of at least one person who meets the qualifications and performs the duties listed in Sec. **31829 - 31831.**

**31829. SOCIAL GROUP WORKER.** If this classification is used, the duties of the person assigned shall include the following:

1. Assists in formulating policy and procedure which facilitates the development of a social milieu in which girls can develop constructive patterns of personal and community living.

2. Assists other staff in providing group experiences that will help individual girls achieve better personal and social adjustment (i.e., by meeting their need for acceptance and recognition, a sense of "belonging," an opportunity to express and modify hostile feelings, experience satisfying relationships, etc.).

3. Acts as a leader or "enabler" in group sessions and as a "limiter" when the behavior of an individual girl imperils her acceptance or the purpose of the group.

4. Interprets to other staff, the personal and social needs of girls observed in group sessions or in individual conferences about group activities.

5. If indicated, performs duties listed for a Recreation or Group Worker.

A social group worker must possess (1) the personal qualifications required for all casework staff and (2) the following:

1. Successful completion of a two-year curriculum in social group work (or in social casework if this curriculum has included field work and a substantial number of courses in group work) in a graduate school of social work accredited by the Council on Social Work Education.

2. A minimum of two years within the last ten years, of successful experience in a social agency. This experience shall have included at least one year in the practice of social group work.

3. Thorough knowledge of the group work process, and of literature in the field of social work and in social group work.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31829. SOCIAL GROUP WORKER (Cont'd.)**

Familiarity with modern social work concepts relative to the problems and treatment of unmarried mothers.

4. Ability to plan and facilitate group activities designed for purposes of education, recreation or treatment and to help develop a social climate in the maternity home, which will enable individual girls to become more effective social beings.

5. Ability to understand individual needs expressed in group activities, to participate in defining the shared and separate responsibilities to be carried by various members of the staff and to work within assigned limits in contacts with individual girls.

**31831. RECREATION WORKER OR GROUP WORKER.** A maternity home which does not have a social group worker shall have one or more persons whose duties include the following:

1. Under supervision, (a) plans and facilitates a program of group activities which will meet the educational, recreational and the religious needs of resident girls and (b) coordinates this program with other services.

2. Recruits, supervises and coordinates the work of any volunteers needed for the group activity program.

3. If indicated, teaches crafts and skills and provides leadership in recreational activities.

4. To the extent possible, performs other duties listed for a social group worker.

When a maternity home has a social group worker, and one or more recreation or group workers, appropriate duties shall be assigned as indicated.

A recreation or group worker shall have the following minimum qualifications:

1. College graduation with specialized training in recreation, guidance, counseling, education or social work.

2. A minimum of two years within the last ten years of successful paid experience in a recreation or group work agency with demonstrated ability to teach crafts and other skills and to direct recreational activities.

3. Knowledge of the principles, techniques and literature in supervised recreation and group dynamics. Familiarity with and acceptance of modern social work concepts relative to the problems and treatment of unmarried mothers.

4. Abilities approximating those of a social group worker.

**31833. PSYCHIATRIC, PSYCHOLOGICAL AND RELIGIOUS SPECIALISTS—BASIC REQUIREMENTS.** Every maternity home which does not receive all needed psychiatric and psychological service

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000168

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**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

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**31833. PSYCHIATRIC, PSYCHOLOGICAL AND RELIGIOUS SPECIALISTS -- BASIC REQUIREMENTS. (Cont'd.)**

from a mental hygiene clinic or another social agency shall secure the services of one or more psychiatrists and psychologists who (1) meet the qualifications listed in the next sections and (2) provide the services.

Any maternity home whose resident program includes intramural religious services or group sessions shall take responsibility for insuring that these sessions are conducted by persons who meet the qualifications.

**31835. PSYCHIATRIST.** A psychiatrist whose services are made available under the auspices of a maternity home shall meet the following qualifications:

1. Graduation from a medical school approved by the Council on Medical Education and Hospitals; licensed to practice medicine in California and eligible for certification by the American Board of Psychiatry and Neurology.
2. A minimum of two years' experience as a psychiatrist in a child guidance or mental hygiene clinic, or as a consulting psychiatrist to another social agency.
3. Knowledge of and respect for the profession of social work and a willingness to work cooperatively with members of the casework staff.
4. Sympathetic understanding of the problems involved in pregnancy out of wedlock, acute awareness of his own feelings about sexual deviation, illegitimacy and adoption; freedom from any personal need to impose his own values on persons served, particularly in areas relative to the future of the child; true respect for individuals and a firm conviction about their right of self-determination.
5. Unusual sensitivity to the feelings of others; ability to establish a professional relationship quickly and to form valid diagnostic impressions in one or two interviews.

**31837. PSYCHOLOGIST.** A psychologist whose services are made available under the auspices of a maternity home shall meet the following qualifications:

1. A Master's Degree in Clinical Psychology from a college or university accredited by the American Psychological Association; with practicum courses in administering individual psychological tests.
2. A minimum of two years' successful experience as a psychologist in a child guidance clinic or mental hygiene clinic.
3. Personal attributes identical with those required for a psychiatrist.
4. Unusual sensitivity to the feelings of others; ability to establish a professional relationship quickly, to evaluate

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000169

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**31837. PSYCHOLOGIST (Cont'd.)**

the emotional factors in a girl's responses and to determine the validity of test results obtained.

**31839. CHAPLAIN OR RELIGIOUS COUNSELOR.** Any minister, priest, rabbi or other religious leader whose services are provided under the auspices of the maternity home shall meet the following qualifications:

1. Educational achievement prescribed by the religious order, national organization or church with which he is affiliated, or by the Board or Advisory Committee of the maternity home.

2. Extensive experience in religious counseling, with demonstrated ability to work successfully with young people in groups and in individual contacts.

3. Real understanding and acceptance of human behavior, a sympathetic attitude towards the problems involved in pregnancy out of wedlock, and a religious philosophy which will permit the assumption of a supportive and helping role without any need to inflict punishment or augment guilt.

4. A warm and friendly manner; freedom from any personal need to impose his own values on persons served, particularly in areas relative to the future of a child; true respect for individuals and a firm conviction about their right of self-determination.

5. Knowledge of and respect for the profession of social work; knowledge of the function of a caseworker and willingness to be of help to persons served by the maternity home without assuming the role of the caseworker or of other members of the staff.

6. Ability to plan and conduct religious services which have beauty, dignity and warmth, can symbolize the comfort and strength to be derived from a satisfying religious experience, and will meet the spiritual needs of the particular group assembled.

7. Ability to plan and conduct informal group sessions in which questions relating to religious concepts can be discussed, and the application of these concepts to problems of modern living, clarified.

**31841. HOUSEMOTHER.** Every maternity home shall have at least one staff member who lives in the residential quarters and performs the duties listed below.

If the maternity home does not use this classification, the Assistant Director, social group worker, resident nurse or Administrative Housekeeper may act as housemother. In homes licensed for less than 20 girls, the Executive may elect to serve in this capacity.

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**000170**



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WITH THE SECRETARY OF STATE**

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**31841. HOUSEMOTHER (Cont'd.)**

The duties of the person assigned shall include the following:

1. Makes certain that the residential quarters are maintained in an orderly manner without sacrifice of a homelike atmosphere, and that well-prepared meals are served on time.

2. In cooperation with professional staff, develops plans for the assignment of resident girls to household chores, makes appropriate assignments and insures that they provide a continuous learning experience.

3. Takes responsibility for knowing that house rules are observed to a reasonable degree, and makes any necessary modification in work assignments or the daily schedule to facilitate the use of professional services or insure maximum benefit from the resident program.

4. Reports significant changes in the physical or emotional condition of resident girls to appropriate professional staff; suggests that girls discuss their problems with the caseworker and cooperates with professional staff in implementing treatment plans.

If the above duties are not performed by a member of the administrative or professional staff, the person assigned must meet fully the personal qualifications recommended for an Administrative Housekeeper.

**31843. CLERICAL STAFF:** Every maternity home shall have clerical staff sufficient in number and competency to (1) conserve the time of the professional staff, (2) insure the maintenance of adequate records (3) protect financial resources and (4) contribute to effective public relations through the preparation of needed reports and interpretative material.

Provision shall be made for some pattern of job classifications which includes the duties customarily performed by a bookkeeper, receptionist, stenographer and/or clerk-typist.

Girls served by the maternity home shall not perform any clerical work which will necessitate access to confidential information.

All clerical staff shall have the following personal qualifications in addition to those listed in Sec. 31803.

1. Capacity to protect the confidentiality of information available to them through the records of the maternity home, and through the performance of assigned duties.

2. Ability to work within defined limits without assuming the functions or responsibilities of other members of the staff.

3. Ability to use tact and courtesy in all contact with other members of the staff, with persons using the services of the maternity home, and with the general public, even when assigned work is interrupted.

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**000171**

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**FILING ADMINISTRATIVE REGULATIONS**  
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**31845. HOUSEKEEPING AND MAINTENANCE STAFF.** Every maternity home shall have housekeeping and maintenance staff sufficient to:

1. Provide at regular hours, well-balanced, attractively served meals planned to meet the nutritional needs of pregnant girls and unmarried mothers.
2. Maintain buildings and grounds in a safe, sanitary, comfortable and attractive condition.
3. Plan for purchase of the food, supplies and equipment needed.

Housekeeping staff in direct contact with girls served by the maternity home shall be selected for their personal attributes, as well as for their skill in performing assigned duties.

**31847. RELIEF STAFF.** Each maternity home shall develop a staffing pattern which insures that:

1. Nutritious meals will be prepared and served regularly every day.
2. Adequate medical and nursing care will be available at all times.
3. Some competent adult with necessary authority and skill will be on duty to take appropriate action when emergencies arise, and to provide necessary supervision on weekends and at night.

Relief staff shall be a part of the regular staff, familiar with the program and with their assigned duties.

**31849. STAFF DEVELOPMENT.** Each maternity home shall make provision for an orderly process of staff development which includes:

1. Appropriate orientation to the philosophy and objectives of the maternity home, as well as to assigned duties.
2. Continuous inservice training designed to (a) develop potential competence to a maximum degree; (b) coordinate the job performance of all persons serving the maternity home and (c) improve the quality of service provided.

All persons who participate in any phase of the program shall be given appropriate induction and training.

Whenever possible, provision shall be made for persons who provide a part-time service (specialists, teachers, volunteer recreation leaders, relief staff, etc.) to participate in appropriate phases of the inservice training program provided for full-time staff (i.e., staff meetings; individual and group conferences, etc.).

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000172

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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31851. **PHYSICAL EXAMINATIONS.** Each staff member shall be in good physical and mental health.

Before employment, each prospective employee shall submit a satisfactory written report of a recent physical examination made by a licensed physician. The physician's statement must certify that the job applicant is physically able to perform the required duties and is free from venereal disease, tuberculosis and all other communicable infections.

All employees who are in contact with infants or have responsibility for the preparation or serving of food shall have an annual physical examination.

The executive shall accept responsibility for insuring that (1) no staff member comes to work when ill (either with contagious disease, such as colds, or with other illnesses which would affect their performance or the health of other persons) and (2) that any employee showing symptoms of illness be excluded from work pending clearance from a physician or staff nurse.

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000173

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FILING ADMINISTRATIVE REGULATIONS  
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**Article 3. Reception**

**31853. ADMISSION POLICIES—BASIC REQUIREMENTS.**

Each maternity home shall define the requirements for admission and the procedures to be used in determining eligibility to service.

If services are provided for girls not accepted for resident care, the factors which govern eligibility to these services shall also be defined.

These statements shall govern (1) acceptance of applications and (2) interpretation of the maternity home program to girls requesting service, to other agencies and individuals attempting to locate a resource for a particular girl, and to the general public.

Every maternity home shall state its admission criteria in writing and make such written policies available to the public.

**31855. NONDISCRIMINATION ADMISSION POLICY.** The written admission policy shall include a statement that the maternity home is operated on a nondiscriminatory basis, according equal treatment and access to services without regard to race, color, religion, national origin, or ancestry. An otherwise eligible girl may not be excluded on the basis of these characteristics, except as indicated below.

A nonprofit maternity home established to serve an identified group may serve this group, but shall not discriminate within the group on the basis of race, color, religion, national origin, or ancestry.

A religious group may elect to serve girls of a particular religious faith, but may not discriminate within the group on the basis of race, color, national origin, or ancestry.

Until July 1, 1965, licenses granted to any maternity home failing to meet the department's standards pertaining to nondiscrimination shall be limited to authority to care for those persons under care at the time the finding of nonconformity is made.

**31857. APPLICATION OF FEE SCHEDULE.** Each maternity home shall define the way in which the fee schedule

is to be used by the casework staff in determining the amount of reimbursement which each girl will be expected to make for the services she receives.

**31859. USE OF A SOCIAL SERVICE EXCHANGE.** Each maternity home shall establish written procedure to govern the practice of staff in use of a Social Service Exchange.

**31861. INTERAGENCY REFERRAL AND COORDINATION OF SERVICE.** Each maternity home shall establish written procedure to govern the practice of staff (1) in referring pregnant girls and unmarried mothers to other social agencies and health facilities and (2) in defining the general nature of the service the maternity home will give when another agency is providing simultaneous or subsequent service.

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**31863. INTAKE PROCESS.** Each maternity home shall make provision for an intake service which includes the following:

1. An information service available to any pregnant girl and to any person or agency interested in her welfare which will explain:

a. The services of the maternity home, the conditions under which needed services can be made available and the confidential nature of any information obtained by the maternity home.

b. The services of any other agency that may seem more appropriate.

2. An initial interview, promptly arranged, with each pregnant girl interested in possible use of any service provided by the maternity home.

3. Any additional interviews with a girl, necessary to (a) help her decide whether she wishes to use the services of the maternity home and if so, the kind of service which will best meet her needs (i.e., resident care, nonresident living arrangements and/or outpatient services) or (b) determine her eligibility for service.

4. Other interviews which a girl may request or agree would be helpful. These may be interviews with her parents, the alleged father, physician, attorney, etc. When indicated, they may also include conferences with other staff in the maternity home and/or contacts with another agency to determine whether needed services can be made available and if so, under what conditions.

5. Decision about whether a girl who wishes the service of the maternity home can be accepted for care, and if so, the point at which the requested service can be initiated.

6. Development of appropriate arrangements for admission or initiation of service for girls accepted for care.

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**31865. USE OF NONRESIDENT LIVING ARRANGEMENTS—  
BASIC REQUIREMENTS.** Each maternity home shall define clearly, the responsibility its staff will assume in helping a pregnant girl or unmarried mother to make arrangements to live outside the maternity home.

If the maternity home assumes any direct responsibility for developing plans for girls to live in wage homes and/or foster homes, this service shall be provided by qualified casework staff and shall conform to the requirements.

**31867. STUDY OF FOSTER HOMES AND WAGE HOMES.**  
A maternity home which assumes responsibility for recruiting wage homes and/or foster homes shall make a careful study of each such home before entering into any plans for its use. This requirement is applicable even when a "free home" will be provided or a home made available in return for services rendered.

The process through which the maternity home determines the ability of applicants to meet the needs of the girls served shall include the following steps:

**1. Application Interview**

This interview shall have as its objective, the sharing of information which will (a) permit the applicants to de-

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**31867. STUDY OF FOSTER HOMES AND WAGE HOMES (Cont'd.)**

termine whether they wish to engage in a study of their home and (b) allow the caseworker to make a tentative decision as to whether the home could meet the needs of a girl served by the maternity home.

**2. Home Visits**

One or more home visits shall be made to become acquainted with all members of the family, evaluate the physical facilities and gain an understanding of what it would be like for a pregnant girl or unmarried mother to live in this home.

**3. Contacts with Collateral Sources**

These contacts shall include appropriate methods to insure the absence of communicable disease.

**4. Evaluation of Findings**

When all needed information has been secured, the findings shall be evaluated to determine the suitability of the home for the care of a pregnant girl or unmarried mother.

No home shall be approved for use when there is indication a pregnant girl or unmarried mother (a) might be exploited for her services; (b) is desired in the hope of securing a child for adoption (by the applicants, their relatives or friends) or (c) is wanted to fulfill an abnormal emotional need, or to contribute to the happiness of any member of the family in a manner detrimental to the girl's welfare.

Wage homes shall be rejected when the applicants will not (a) provide suitable compensation for service rendered; (b) allow adequate "time off" to permit a girl to keep appointments at the maternity home for casework interviews and medical examinations, and (c) share the objectives of the maternity home.

**31869. PLACEMENT SERVICE.** A maternity home which accepts responsibility for developing plans for older pregnant girls or unmarried mothers to live in family foster homes or wage homes, must provide a responsible placement service geared to meet the needs of the individuals served. (A maternity home cannot assume responsibility for the selection of a nonresident living arrangement for any girl less than 16 years of age, or for the placement of any infant.)

In providing a placement service, it shall be the responsibility of the caseworker:

1. To find a foster home or wage home suited to the individual needs of the girl or woman.
2. To help the girl understand what it will be like for her to live in this particular home, and what will be expected of her.
3. To participate in the placement process.

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Article 4. Care

**31871. CASEWORK SERVICES BASIC REQUIREMENT.** shall  
Every maternity home shall make casework service available  
to each girl considering use of its services or accepted for service.

The casework program shall be designed to help a pregnant girl:

1. Secure the individualized services necessary to meet her current needs.
2. Achieve a more mature, satisfying and socially acceptable way of life.
3. Develop a plan for her baby which will promote his optimum development.

**31873. CONTINUING CASEWORK SERVICE.** Continuing casework with a girl accepted for residential care or outpatient service shall be designed:

1. To maintain a supportive relationship which can help her face the realities of her situation and utilize available resources.
2. To help her express and understand her feelings about her pregnancy, the father of her child, the child, and her relationships with key people in her life.
3. When appropriate, to help her understand any pre-existing problems which may have precipitated her pregnancy, or complicate her present situation.
4. When indicated, and the girl consents, to help her family and/or the father of her child to understand their feelings about her pregnancy and how best to help her.
5. To help her attain feelings of self-respect and self-worth, more satisfying relationships with others, and better capacity to use her strengths for constructive living.
6. To help her make a sound plan for her own future and take any steps now possible toward carrying out this plan.
7. To help her reach a decision about a suitable plan for her child (if possible, by the time of his birth or shortly thereafter) and to take steps toward carrying out this plan.
8. To identify her need for special services and to coordinate the resources of the maternity home and the community to meet her individual needs.

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**31875. DISCHARGE AND POST-DISCHARGE SERVICES.** Each maternity home shall define in general terms, the usual point at which casework services will be terminated.

**31877. PSYCHIATRIC AND PSYCHOLOGICAL SERVICES - GENERAL REQUIREMENTS.** Each maternity home shall develop some arrangement to insure that necessary psychiatric and psychological services will be available for girls accepted for service.

A maternity home which does not employ a psychiatrist and a psychologist with the qualifications required shall make certain that any needed psychiatric and psychological service will be provided by a child guidance or mental hygiene clinic, or some other agency which has staff meeting these qualifications.

**31879. PSYCHIATRIC SERVICE.** The following psychiatric services shall be available when needed:

1. Diagnostic interviews with any girl whose behavior or evident emotional conflict indicates need for psychiatric help in formulating plans for casework treatment and/or the future care of the girl and her child.

For each girl interviewed, the service given by the psychiatrist shall include an interpretation of relevant material to the casework staff, and assistance in formulating plans for treatment or for future care of the girl or her child.

2. Treatment of any girl whose emotional disturbance is so great that she is unable to use casework help in developing an effective plan for her future or that of her baby.

A maternity home employing casework staff shall also make regular psychiatric consultation available to that staff.

**31881. PSYCHOLOGICAL SERVICE.** The services of a psychologist shall be available to the casework staff whenever information about the mental equipment of a pregnant girl or unmarried mother is essential to the development of (1) an appropriate plan of treatment and/or (2) suitable educational and vocational plans.

Any arrangements made with a qualified psychologist or mental hygiene clinic shall include provision for:

1. Written reports which interpret the results of tests given, evaluate the validity of the test results, and make recommendations in accordance with the reason for referral.

2. Any consultation with the casework staff needed to supplement the written report and interpret the significance of tests or other information secured.

Whenever a girl is referred for testing, the casework staff shall provide the psychologist with a brief written summary which (1) explains the reason for referral, (2) gives identifying data and (3) includes sufficient social history to provide a basis for evaluating the validity of the test results.

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006179

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**31883. BASIC REQUIREMENTS.** The resident program shall have the following objectives:

1. To provide a setting which will facilitate use of professional services designed (a) to meet emotional, medical, spiritual, educational and recreational needs during pregnancy; (b) to prepare the girls served for a more mature, emotionally satisfying and socially acceptable way of living and (c) to provide for their babies the services necessary to protect their rights and promote their optimum development.

2. To provide an experience of living with other girls with similar problems which can alleviate guilt, decrease hostility, increase self-esteem and self-understanding and provide an opportunity for companionship, and for participation and self-expression in group activities.

3. To make possible (a) a process of daily association with staff possessing qualities worthy of emulation; (b) an opportunity to develop satisfying relationships with adults who are well-adjusted in their own lives and (c) a means by which daily living experiences can be used to foster the personality growth of individual girls.

4. To provide an environment which will insure comfortable shelter, appropriate food, privacy, security, relaxation and freedom from pressures, with simultaneous opportunity for optimum self-direction, self-responsibility and self-determination.

Each maternity home shall define the methods and procedures to be used by staff in implementing these objectives.

House Rules established to govern the activities of girls accepted for resident care shall also reflect these objectives.

Any practice not in conformity with the spirit of these objectives (censorship of mail; prohibition against a girl's use of her own room during "free time"; undue restriction of freedom to leave the grounds or to receive visitors, etc.) violates the requirements of this section.

**31885. RELIGIOUS ACTIVITIES.** The right to freedom of worship shall not be violated by any maternity home.

**31887. WORK ASSIGNMENTS.** Any assignment of resident girls to household "chores" shall reflect the following requirements:

1. The work program shall never be used as a substitute for adequate financing. The services of girls in residence shall not be used in lieu of adequate staff.

2. The work program shall be an integral part of the teaching and helping process inherent in the function of a maternity home. Work assignments must represent the best thinking of all members of the staff appropriately concerned with the welfare of an individual girl.

**31889. INFANTS IN THE RESIDENTIAL QUARTERS.** Each maternity home shall define clearly:

1. The conditions under which a baby will be brought to the residential quarters.

2. The responsibilities which his mother will be expected to assume for his care and those which will be carried by the resident nurse (and/or nurse's aides).

3. The extent to which an unmarried mother will participate in the program of group living when she returns to the residential quarters with her baby.

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(Pursuant to Government Code Section 11380.1)

**31891. BASIC REQUIREMENT.** The daily program shall be planned to insure that the following needs will be met for each girl:

1. The need for privacy, relaxation, and time to "take stock" in assessing the past and developing plans for the future.
2. The need for group activities which will provide group acceptance, recognition, and a sense of "belonging"; facilitate satisfying social relationships and a capacity to get along

**31893. EDUCATION BASIC REQUIREMENTS.** Each maternity home shall provide academic instruction, informal educational activities and help in securing any needed vocational guidance and training. (Health instruction is also required.

**31895. ACADEMIC INSTRUCTION.** Each maternity home shall make all possible effort to develop with the appropriate school district, some arrangement to insure that credit will be given for academic work completed at the maternity home.

**31897. INFORMAL EDUCATIONAL ACTIVITIES.** The program of informal educational activities shall be designed to serve the following purposes:

1. To make a girl's stay in the maternity home as interesting as possible.
2. To make available to each girl, information and skills which may prove useful in the future.
3. To provide constructive group experiences for each girl.

Opportunity for a choice of activities shall be provided and each girl permitted to make decision as to whether she will or will not participate in the program offered.

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000181

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**Article 5. Safety**

**A. Life Safety**

**31899. SAFETY AND SANITATION.** The physical plant of every maternity home shall be safe.

**B. Health**

**31901. GENERAL REQUIREMENTS.** When a maternity home maintains a hospital unit, the equipment, personnel and quality of service provided in that unit shall meet fully the standards established by the State Department of Public Health. A current license for the hospital unit, issued by the State Department of Public Health, must be in effect.

If the maternity home does not have a hospital unit, arrangements must be made to secure appropriate medical and nursing services from (1) hospitals licensed by the State Department of Public Health; (2) hospitals which meet the standards established by the State Department of Public Health, if exempt by law from the licensing jurisdiction of that department and/or (3) professional persons who can meet the qualifications established for the medical and nursing staff employed by a maternity home.

Regardless of the source from which necessary medical and nursing care is secured, each maternity home shall insure the availability of the services listed in this chapter.

**31903. ADMISSION EXAMINATION.** The practice of each maternity home shall meet the following requirements:

1. The medical and obstetrical history of each pregnant girl accepted for care shall be secured and recorded as soon as possible.

When prior medical care has been received during pregnancy, a report from the examining physician must be obtained if possible. (An exception may occur when current examination indicates that such a report would be of no value.)

2. A complete examination of each girl accepted for care shall be made by medical staff serving the maternity home, and results recorded in her medical record.

When a girl's need for resident care is emergent and immediate arrangements for a complete medical examination cannot be made, a physician or nurse shall determine whether she has a communicable infection of any type. When admission occurs under these circumstances, a complete medical examination must be made as soon as practical.

3. Proper safeguards shall be established to protect the health of other girls in residence whenever a girl is admitted to the maternity home prior to (a) the completion of a complete medical examination, (b) the receipt of reports on laboratory tests for communicable diseases or (c) the provision of any treatment necessary to insure the absence of communicable infection.

**31905. PRENATAL CARE.** Provision shall be made for the following services:

1. Dental examination and any repair, extraction or treatment necessary to insure good health during pregnancy.

2. Regular examinations during pregnancy, in accordance with standards established by the American Medical Association.

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000182

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**31905. PRENATAL CARE. (Cont'd)**

3. Treatment when any abnormal condition in pregnancy is detected; consultation with specialists when indicated; and development of special arrangements for delivery whenever it is evident that unusual precaution or special procedures will be required.

4. A process through which the appropriate physician shares with other members of the staff (specialists, a caseworker and/or supervising nurse), his recommendations for individual girls as they relate to diet, exercise, rest, specialized treatment, work assignments, plans for delivery, discharge, post-discharge medical care, etc., in order that joint planning and decision can occur, and the total service of the maternity home can be coordinated.

5. A process through which significant changes in the physical and emotional condition of a pregnant girl are reported to the appropriate physician and/or caseworker by the resident nurse or another member of the resident staff.

6. Appropriate medical and nursing care when illness or symptoms of abnormality unrelated to the condition of pregnancy develop. Such care must include arrangements for isolation whenever infection is present or suspected, and for admission to the hospital unit or to an "outside" hospital when this step is necessary.

7. Interpretation of the hygiene of pregnancy, the physiological changes which occur, the events and the procedures used in examination and delivery, the importance of proper diet and nutrition, etc.

8. Supportive help in facing the experience of childbirth at the onset of labor and whenever needed in prior periods. (Such help will customarily be provided by a resident nurse and/or a caseworker in accordance with their defined functions.)

9. Prompt arrangement for admission to the hospital unit or another hospital facility at the onset of labor.

**31907. DELIVERY.** Information about the delivery experience, plans for discharge and recommendations for the future care of the unmarried mother and her baby shall be shared with the appropriate caseworker in the maternity home.

If the maternity home does not maintain a hospital unit, the working agreement developed with a community hospital must insure that this information will be transmitted to an appropriate person in the maternity home. (The executive, nurse or physician responsible for the medical program may be designated to receive this information for transmittal to the caseworker.)

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000183

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(Pursuant to Government Code Section 11380.1)

**31909. POST-PARTUM CARE.** Each maternity home shall take appropriate action to insure that:

1. No mother will be required to see, feed or care for her baby in the maternity home, unless this is her expressed desire, and that no mother will be deprived of these experiences if she requests them.

2. The final plan for the care of a baby results from the mother's own decision (although the help of a caseworker will be available to her), and that no member of the staff will exert direct or indirect pressure on any mother to keep or to release her baby for adoption.

3. No mother will be required to remain in either the hospital unit or the residential quarters of the maternity home for any specified period, and that the date of discharge recommended will be the joint decision of the attending physician and the caseworker, based upon the mother's physical condition, her own wishes, and the plans developed for her future care and that of her baby.

4. Appropriate care will be available for any mother discharged from a hospital or hospital unit, until such time as she can regain her strength and can make plans for other living arrangements.

5. Any mother planning to keep her baby or requesting additional time to make a decision in this regard, can obtain for herself and her baby, appropriate care, medical supervision, treatment and instruction in proper methods of infant care in the residential quarters of the maternity home (or in another facility operated for this purpose) for the period of time required to implement her plans for the baby's care. (For some girls, the caseworker may need to establish reasonable time limits in regard to the duration of such care.)

6. A complete medical examination and any needed medical counseling and/or treatment is made available to any mother wishing to use this service within a six week period following delivery.

**31911. CARE OF INFANTS.** The care provided for infants shall meet the following requirements:

1. Care in a nursery for the newborn shall meet the standards established by the State Department of Public Health.

2. Every baby shall be held by a nurse or attendant while being fed unless the infant is taken to his mother for feeding purposes. Adequate time for sucking must be allowed. If the infant is not receiving care from his mother, it shall be the assigned responsibility of a nurse or nurse's aide to hold and give attention and affection to each baby at regular intervals.

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000184

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31911. CARE OF INFANTS. (Cont'd)**

To the extent possible, a baby shall be fed and held by the same person throughout the period of his care in the maternity home.

3. Provision shall be made for the usual removal of well babies from the newborn nursery, on or before the tenth day of life, with the expectation that babies to be placed in foster homes will be removed by the appropriate child placing agency before the expiration of this period, and that babies who will remain with their mothers will be transferred to a facility in which their mothers can assume total or partial responsibility for their care.

4. Medical supervision shall be provided for all infants not receiving care in a nursery for the newborn and appropriate medical treatment given to any infant who shows symptoms of illness or physical abnormality.

Such supervision must include (a) issuance of orders for feeding and for the preparation of formulae and (b) development of arrangements for the isolation of any infant in residence who is found to have or is suspected of having, a communicable condition.

5. The appropriate physician shall share with the caseworker, his recommendations and evaluations relative to each infant (desired changes in the feeding plan; physical and mental condition of the baby; recommended discharge date; post-discharge medical care; etc.) in order that joint planning and decision can occur.

6. Infants not receiving care in a nursery for the newborn shall be supervised by a registered nurse who will also assume responsibility for helping their mothers to practice proper methods of infant care, and for referring to the appropriate physician, any infant whose progress or development is not satisfactory.

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000185

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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31913. NUTRITION.** Food for proper nutrition during pregnancy shall be made available to safeguard the health of every pregnant woman, and insure the normal development, safe delivery and survival of each infant.

Proper nutrition shall be insured through provision for:

1. Funds adequate to provide a prenatal diet rich in protein, minerals and vitamins.

2. Meals which are (a) properly balanced to meet the food requirements of the girls in residence, (b) well prepared, (c) cooked immediately before serving and (d) attractively served, at hours normal for family groups. If the heartiest meal is served at noon, breakfast and supper must also be well planned, complete meals.

3. Housekeeping staff sufficient in number, knowledge, experience and hours of employment to insure that (a) each meal will meet the above requirements, (b) special diets will be prepared in accordance with the recommendations of physicians and (c) any need for consultation with a professionally qualified dietician will be recognized and the service requested and used.

4. Staff appreciation of the emotional significance of food, and a willingness to utilize a team approach in developing a total treatment plan for pregnant girls and unmarried mothers whose behavior in relation to food indicates the presence of emotional problems. The development of treatment plans of this type must be insured through frequent staff conferences and through an in-service training program for all members of the staff.

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000186

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**Article 6. Building and Grounds**

**31915. LOCATION.** Every maternity home shall be located in an area which insures safe and sufficient water, adequate drainage and sewage disposal, good fire protection and accessible public transportation.

The location shall afford easy access to other social agencies, hospitals, medical and mental health facilities, stores, churches, libraries and educational facilities.

**31917. GROUNDS.** The grounds shall be large enough to provide some space for outdoor living and for appropriate group activities in addition to the necessary service area.

Buildings and grounds shall be kept clean and sanitary.

All wall surfaces and floors shall be suitable for the type of room. Bathrooms and kitchens must have easily washable walls and floors.

Special precautions shall be taken in the storage of paints, oils and other inflammable material.

**31919. HEAT, LIGHT AND VENTILATION.** All rooms (including hallways and service units) shall be properly heated, lighted and ventilated.

**31921. BUILDINGS — GENERAL REQUIREMENTS.** The physical plant of every maternity home shall be suitable for the care of its residents and for the services included in its program. The degree of privacy afforded, the facilities available for group living, and the total atmosphere shall be conducive to effective use of these services.

Licensed maternity homes shall make all reasonable effort to meet current regulations at the earliest date possible.

When existing buildings do not meet the regulations in this chapter, a licensed maternity home shall modify their use to achieve the maximum degree of conformity possible without major alteration of the basic structure.

No building used by a maternity home shall provide space for (1) any services not related to the needs of pregnant girls, unmarried mothers or their infants or (2) residential care of any other persons.

**31923. NEW BUILDINGS.** New buildings and buildings whose initial use occurs after September 1954, shall conform fully with the regulations in this chapter.

Plans for new buildings or for additions or major alterations to existing buildings shall be prepared by an architect (or by a licensed civil or structural engineer) and submitted to the State Department of Social Welfare for review and approval before construction is begun.

The State Department of Social Welfare shall be notified of the intent to occupy a building not previously used by the maternity home, and approval secured before purchase or lease is completed.

Drawings or sketches of the proposed use of existing buildings shall be provided on request.

All new buildings shall be arranged to facilitate effective and efficient service, and to provide an atmosphere of comfort, relaxation and friendliness. The possibility of achieving a homelike appearance and adequate opportunities for privacy shall not be sacrificed for the convenience of staff, or a goal of minimum cost.

**31925. OFFICE SPACE.** Every maternity home shall provide sufficient space for its business, clerical and managerial functions, and for the desk work of the administrative housekeeper and the records she must maintain.

Separate space shall be available for reception and waiting purposes.

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000187

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31925. OFFICE SPACE. (Cont'd)**

Private offices shall be provided for the executive, the resident nurse and the casework staff. These offices shall be equipped with desks, comfortable chairs, private telephones and other items necessary to facilitate the performance of their duties.

Additional interviewing rooms shall be available for social workers from other agencies who serve persons in residence.

**31927. MEDICAL EXAMINING ROOM.** When a licensed hospital unit is not maintained, a properly equipped examining room shall be provided for the use of medical and nursing staff responsible for the medical and nursing care of girls in residence.

**31929. FACILITIES FOR RESIDENTS—VISITING ROOMS.** A sufficient number of comfortably furnished visiting rooms shall be provided to allow girls in residence to receive and talk with visitors in private.

**31931. LIVING ROOMS—RESIDENTS.** Every maternity home shall have at least one living room which is comfortably furnished, centrally located, and large enough to allow free and informal use by all girls in residence.

**31933. ROOMS FOR EDUCATIONAL, RECREATIONAL AND RELIGIOUS ACTIVITIES.** At least one room for informal educational activities (craft classes, discussion groups, etc.) shall be provided.

One or more additional rooms must be provided for academic instruction so that students can be tutored individually or in groups without disrupting the informal educational activities provided for other girls.

When religious services are conducted under the auspices of the maternity home, a suitable room shall be available for this purpose.

**31935. DINING ROOMS.** Every maternity home shall provide an attractive dining room of sufficient size (approximately 15 square feet of floor space per person) to accommodate comfortably the entire resident group when seated at small tables.

The dining room shall be located near the kitchen to insure rapid and efficient serving of food.

Silverware and attractive dishes in good condition shall be used at all regular meals. Cracked or chipped dishes or glassware shall not be used because of health hazards.

**31937. KITCHEN.** Every maternity home shall have a kitchen large enough to accommodate the equipment and personnel needed to prepare and serve the number of meals required.

The kitchen shall be arranged and equipped to insure convenient operation, healthful working conditions, sanitation and control of noise, heat and odor. Suitable equipment for the preparation and serving of meals, for the proper refrigeration of perishable foods and for the necessary washing and sanitizing of dishes and utensils, shall be provided.

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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**31937. KITCHEN. (Cont'd)**

Adequate storage space shall be provided for food supplies and for dishes and silverware not in use. Such storage space shall be clean and dry, and provide protection from insects, rodents, dust and other contamination.

Proper disposition shall be made of garbage and trash.

**31939. SLEEPING QUARTERS—RESIDENTS.** The number of sleeping rooms shall be sufficient for each girl in residence to have comfortable and attractive quarters that assure as much privacy as the plant will currently permit.

In all new buildings, the majority of sleeping rooms shall be constructed for single or double occupancy. No rooms shall be designed to accommodate more than four persons.

In all existing structures, a maximum number of rooms shall be made available for single or double occupancy. When continued use of existing dormitories is necessary, optimum privacy must be afforded through the use of removable walls, partial partitions, screens or the arrangement of furniture.

Every single room shall contain a minimum of 100 square feet of floor space. In double rooms and those accommodating more than two persons, the minimum shall be 70 square feet of floor space per person.

Every room shall have at least one outside window. The total window area must be equal to  $\frac{1}{8}$  of the floor space and never less than 16 square feet.

All sleeping rooms shall be near lavatory, bath and toilet facilities, and within easy access to the living, dining and recreation facilities.

Each sleeping room shall be pleasant and cheerful, and furnished in a manner which will insure comfort for sleeping purposes and for use as a sitting, reading and study room.

The furniture in each room must include an individual bed, a table or desk, comfortable chairs, reading and bedside lamps and adequate space for clothing and personal belongings. Adequate closet and storage space shall also be provided.

**31941. ISOLATION ROOMS.** A sufficient number of single sleeping rooms (equipped with connecting private baths) shall be held in readiness (1) for the use of girls admitted to the residential quarters prior to a complete medical examination, the receipt of reports on laboratory tests for communicable disease, or treatment necessary to insure the absence of communicable infection and (2) for the use of other girls who develop symptoms of illness and will require separate care until they have recovered their usual health, or other plans for treatment have been developed.

**31943. FACILITIES FOR MOTHERS AND INFANTS.** The residential quarters (or another facility operated for this purpose) shall have a sufficient number of rooms available for the post-partum care of mothers who request such care or wish to remain with their babies for a period of more than 10 days.

Whenever possible, the rooms provided for mothers who plan to keep their babies shall have sufficient space and equipment to permit

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**31943. FACILITIES FOR MOTHERS AND INFANTS. (Cont'd)**

the infant to share his mother's room. Single rooms shall be used for this purpose and shall meet the requirements for sleeping rooms of this type. When their size does not permit the installation of all furniture and equipment necessary for the care of a baby, a nearby room for bathing, etc., shall be provided.

If "rooming-in" arrangements are not possible in the current physical plant (or in a separate facility for post-partum care), space and equipment for a nursery for babies being kept by their mothers shall be provided in the residential quarters or in the hospital unit. The nursery established for this purpose shall be so located that a mother will find it convenient to assume total or partial responsibility for the care of her child. If in the hospital unit, this nursery shall be separate from the nursery for the newborn.

**31945. BATH, LAVATORY AND TOILET FACILITIES—RESIDENTS.** Adequate bath, lavatory and toilet facilities shall be available to meet the needs of all persons in residence.

At least one toilet and lavatory shall be located near the living and recreation rooms.

Private baths must be provided for all single rooms allocated for isolation use.

In addition, toilet, bath and lavatory facilities convenient to the bedrooms shall be provided in the following minimum ratio:

1. Toilets and showers (or tubs)—one each for every 10 residents.
2. Lavatories—one for every five residents. Each toilet unit must have a lavatory.

Provision must be made for privacy in all bath and toilet rooms. In rooms intended for multiple use, each toilet and shower shall, therefore, be enclosed in a cubicle or protected in some way by a door or curtain.

**31947. LAUNDRY AND SERVICE UNITS.** Suitable and adequate laundry and pressing facilities shall be available for the convenience of resident girls.

Unless a commercial laundry is used, suitable space and equipment shall be provided to launder institutional linens in a safe and efficient manner.

Sinks necessary for the proper performance of maintenance work shall be provided. Kitchen sinks shall not be used for washing of cleaning cloths and mops, for the disposition of scrub water, etc.

**31949. STORAGE ROOMS AND CLOSETS.** In addition to the storage space available in sleeping rooms, adequate storage space of the following types shall be provided:

1. Storage rooms close to the kitchen, for food bought in quantity. Such rooms must provide protection from mold, insects and rodents.

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000190

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**31949. STORAGE ROOMS AND CLOSETS. (Cont'd)**

2. Storage rooms or closets for linen.
3. Storage closets for cleaning equipment and supplies.
4. Storage space for supplies and equipment used by maintenance and yardmen.
5. Storage space for luggage, outdoor or extra furniture, equipment, etc.
6. Lockers or other available space for the safekeeping of work clothing, street clothing and personal belongings of nonresident staff. (Also a requirement of the State Department of Industrial Relations.)

**31951. STAFF FACILITIES—RESTROOMS.** An adequate number of restrooms for employees and guests shall be provided.

Restrooms designated for staff use shall be equipped with a comfortable couch, and shall meet all other requirements established by the State Department of Industrial Relations.

Wash basins, toilets and necessary supplies shall be available in all restrooms.

**31953. STAFF QUARTERS.** Bedrooms for resident staff shall meet the requirements for sleeping rooms of girls in residence.

Private bath and toilet facilities reserved for the use of resident staff must be provided adjacent to, or near their bedrooms.

Rooms provided for resident staff on call in a supervisory or counseling capacity shall be close to the rooms of the resident girls to insure the availability of an adult when a girl becomes emotionally disturbed or labor begins outside the regular working hours of professional staff.

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WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

Article 7. Facilities Receiving Federal Funds

31955 FEDERAL REQUIREMENTS. See federal requirements set forth in  
Subchapter II above.

Article 8. Group Care for Infants Under 2 Years

31957 NURSERIES. See requirements for Day Nurseries set forth in  
Subchapter II above.

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000192

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Chapter 5. MINIMUM STANDARDS FOR RESIDENTIAL CARE HOMES  
FOR ADULTS

Article 1. Administration

32001 POSTING OF THE LICENSE. The license shall be posted in a conspicuous place.

32003 REPORT OF RESIDENT DEATH. A licensee shall notify the licensing agency/within 48 hours after the death of a resident.

32005 REPORTS OF PERSONNEL. The name of the employed manager, if any, the substitute for the manager and the night supervisor shall be reported to the licensing agency prior to the granting of the license.

32007 REPORT OF PERSONNEL CHANGE. A licensee shall notify the licensing agency/within 48 hours after a change in the person/responsible for operation of the facility.

32009 RESIDENT RECORD. A licensee shall keep and maintain records for each resident containing the following information:

- a. Name
- b. Last previous address
- c. Age
- d. Nearest of kin
- e. Mother's maiden name
- f. The person responsible for the resident's care and maintenance
- g. Such other data as the department requires.

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000193

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**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**  
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32011        RECORDS - LARGE RESIDENTIAL CARE HOMES. The following records shall be maintained on every person accepted for care. Information marked with asterisks shall be kept in the home and available to the person in charge:

- \* 1. Resident information required by Section 32009 medical
- 2. Report of preadmission/evaluation
- \* 3. Physician's admission report and instructions
- 4. Records of any illness, medical care in the facility or or subsequent medical examinations.
- \* 5. Name of physician to be called in an emergency.
- \* 6. Desired plan for hospitalization.
- 7. Pertinent social information obtained in admission interviews or from referring agency, and pertinent information about the resident during stay in the facility, special services given, problems and needs noted, etc.
- 8. Dates of admission and discharge.
- \* 9. Names, addresses, and telephone numbers of responsible relatives or friends, guardians of estate or person, person responsible for handling financial affairs.
- \*10. Religion--name and address of pastor, religious advisor, if any.
- \*11. Burial plans.
- 12. Resident or Life Care Contract made at admission; and any changes in such contracts.

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000194

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WITH THE SECRETARY OF STATE  
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32011 RECORDS - LARGE RESIDENTIAL CARE HOMES (Continued)

13. Any other financial arrangement and special charges.

32013 FINANCES. Every facility shall have a financial plan which guarantees sufficient resources to meet operating cost at all times and required to maintain/standards.

32015 LIQUID RESERVES - LARGE RESIDENTIAL CARE HOMES. New facilities which cannot demonstrate predicted income based on experience shall have available at the beginning of operation sufficient liquid reserves to cover estimated operating expenses for at least three months.

32017 PROTECTION OF ESTATES AND INCOME. No licensee or employee of a facility shall accept appointment as guardian, or conservator, of the estate of any resident or become substitute payee for any payments made to any resident, or accept power of attorney.

32019 PROPERTY OF RESIDENTS. Every facility shall take appropriate measures to safeguard and account for personal articles of residents which are brought to the facility and any cash resources entrusted to the care and/or control of the licensee.

32021 BONDING REQUIREMENT An applicant or licensee shall post a bond in the amount specified in this section when he or other persons acting on his behalf handle or intend to handle in any month \$50 or more of a resident's money, or \$500 or more for all residents

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000195

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**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**  
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**32021 BONDING REQUIREMENT (Continued)**

in the facility:

<u>Average Amount Handled</u>	<u>Bond Required</u>
Less than \$750	\$1,000
\$751 to \$1,500	2,000
\$1,501 to \$2,500	3,000

and for every further increment of \$1,000 or fraction thereof, an additional \$1,000 on the bond.

An applicant or licensee who cannot afford the provision of the bond specified above may submit to the State Department of Social Welfare a written request for modification or full waiver of the bonding requirement in accordance with Welfare and Institution Code Section 16213.5.

**Article 2. Personnel**

**32023 PERSONNEL REQUIREMENTS**

1. All members of the licensee's family or staff who are in contact with residents who require care shall:

- a. Be in good health and physically, mentally and occupationally capable of and performing assigned tasks.
- b. Provide for care and safety of residents without abuse, exploitation or prejudice.
- c. Have on file in the facility, available for inspection, a certificate from a physician showing that during the preceding year each individual has submitted to an X-ray of the lungs, or an approved intradermal tuberculin test which if positive was followed by an X-ray of the lungs, and has been found free from active tuberculosis. Exception: In accordance with Welfare and Institutions

**000196**

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32023 PERSONNEL REQUIREMENTS (Continued)

Code Section 16214, the provisions of this paragraph shall not apply to a facility operated by and for the adherents of a bona fide church, sect, or denomination who rely upon prayer in the practice of religion for their protection and health, provided the facility limits admission to members of the particular faith of those operating the facility.

32025 HOUSEHOLD MEMBERS. Care of the residents is a service which shall be undertaken only by qualified persons in households in which other family interests are not in conflict with the welfare of the residents.

32027 FACILITY PERSONNEL. Facility personnel shall be in the number and be trained to assure the safety and welfare of the residents.

32029 PERSONAL QUALIFICATIONS OF OWNER-MANAGER AND EMPLOYED MANAGER. "Employed manager" means an employee who is regularly responsible for the daily operation of the home in the absence of the licensee. The term "Manager" includes the owner-manager and the employed manager. The manager shall have the ability and willingness to conform to applicable laws, rules, regulations, standards and/shall possess the following qualifications.

1. Physical Health. Good general health and to be capable of performing housekeeping tasks and of giving personal services to the residents and directing the work of household assistants.

Each applicant for a license shall furnish a physician's current report giving an evaluation of his/general health and ability to care for residents. Such a physician's report shall be furnished by each licensee at least every two years.

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000197

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

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32029      PERSONAL QUALIFICATIONS OF OWNER-MANAGER AND EMPLOYED MANAGER  
(Continued)

A report of an examination for the detection of active communicable tuberculosis shall be furnished by each applicant for a license and, annually, by each licensee.

Exception: The requirements for a general health examination and an examination for tuberculosis are waived for facilities where the licensee and household assistants are members of a religious faith relying upon spiritual means of healing provided that the facility limits the persons cared for to members of the same religious faith.

2. Character and Temperament.

a. Good character and a reputation of personal integrity.

b. Willingness and temperamental capacity for respecting and enjoying people, and for working with and understanding persons under care.

3. Education and Experience. A background of education, training or experience which assures the ability to provide care for persons, to keep financial and other records and, when applicable, to direct the work of others.

4. Special Training. Interest in and willingness to participate in activities which increase their skill and understanding of care of residents.

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000198

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

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32031 HEALTH SUPERVISION. There shall be a consulting physician, licensed to practice medicine and surgery in California, on call.

In addition to the consulting physician in large residential care homes, there shall be at least one regular full-time staff member qualified by training and/or experience to provide the daily health supervision required by the residents.

Article 3. Resident Reception

32033 RESIDENT RECEPTION. The licensee shall receive into the facility only those persons for whom care is authorized under the terms of the license. Within the discretion of the department persons may be received into the facility for whom care is not specifically authorized by the terms of the license provided that the needs and interests of such persons are compatible with the welfare of residents specifically authorized and the primary purpose of the facility remains unchanged.

32035 RESIDENT CONTRACT. All facilities shall have a written contract with each resident. Such contracts shall be completed prior to or at time of admission and shall be dated and signed by the licensee or by his authorized representative and by the applicant for admission, or by a responsible relative or agency. Note: The resident contract shall not provide the licensee the right to act in behalf of the resident or be given general power of attorney.

The original of the completed Resident Contract shall be retained by the licensee, and a copy shall be provided to the resident and to any relative or agency responsible for payment. The contract shall stipulate:

- a. The services to be provided by the facility.
- b. The basic rate to be paid, on what date and at what intervals,

000199

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

32035      RESIDENT CONTRACT (Continued)

whether in advance or in arrears, and charges for optional services not included in the basic rate.

c. Conditions for modification of the contract which shall include at least 30 days prior notice of basic rate change.

d. The conditions under which refunds will be made.

e. The services will at all times be provided without discrimination as specified in Section 32037.

32037      NONDISCRIMINATION. All licensed facilities shall be operated on a nondiscriminatory basis according equal treatment and services without regard to race, color, religion, national origin or ancestry.

Exception: Any bona fide nonprofit religious, fraternal or charitable organization which can demonstrate to the satisfaction of the licensing agency that its primary or substantial purpose is not to evade this section, may establish admission policies limiting or giving preference to its own members or adherents and such policies shall not be construed as a violation of this section. Any admission of nonmembers or nonadherents shall be subject to the requirement of this section.

32039      RESTRICTIONS ON RECEPTION AND CARE. Persons who shall not be admitted or cared for include:

1. Persons with active communicable tuberculosis or any other contagious or infectious disease.

000200

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**32039      RESTRICTIONS ON RECEPTION AND CARE (Continued)**

2. Persons who because of convalescence or a chronic health condition, require professional nursing care including close medical supervision, daily professional observation or the exercise of professional judgment from the facility.

3. Persons incapable of leaving the building without assistance in an emergency unless the building has been approved by the appropriate fire official for nonambulatory persons.

4. Persons requiring any kind of restraint or confinement in locked quarters.

5. Persons subject to attacks of epilepsy which are not medically controlled.

6. Persons who require treatment for addiction to alcohol or drugs, who require treatment or special care for mental illness or retardation or who require treatment, rehabilitation or care for a major physical disability.

7. Persons whose needs and interests are incompatible with the welfare of other residents.

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**000201**

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

Article 4. Resident Care

**32041 CARE.** The minimum care that shall be provided each individual in the facility shall be:

1. Safe and healthful living accommodations.
2. Three nutritionally well-balanced meals daily.
3. Personal assistance, as needed and requested by the resident, with dressing and undressing, eating, taking prescribed medication, and supervision to prevent harm to self or to others.
4. Continuing observations of each resident's physical and mental condition.
5. Emergency health care, including medical treatment and bedside care during temporary minor illness determined as such by the attending physician.
6. A daily activity program which includes social and recreational activities appropriate to the interests and abilities of residents.

**32043 PUNISHMENT.** Corporal or unusual punishment, physical restraint and physical or mental abuse are prohibited.

**32045 REQUIRED WORK RESTRICTION.** No resident shall be expected to perform major housekeeping or other tasks involving the care of other residents.

**32047 HOUSEKEEPING.** Housekeeping shall meet an acceptable standard of cleanliness, orderliness, fresh air in rooms, and absence of offensive odors.

Bath and toilet rooms shall be kept clean and free from odor.

Floors shall be painted or otherwise rendered nonabsorbent.

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000202



**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**32047 HOUSEKEEPING (Continued)**

All furnishings and equipment shall be maintained in a good state of upkeep and repair.

**32049 RESTRAINT.** No forms of restraint shall be used in caring for any resident. The use of any appliance to confine a resident to a bed or chair or to deprive him of the use of arms, hands, or feet is prohibited. No resident shall be locked into his bedroom by day or night, and windows shall not be barred or closed by any screen heavier than ordinary fly screening.

**32051 ASSISTANCE WITH MEDICATION.** Assistance with medication shall be limited to remedies usually prescribed for self-administration by the resident's physician. Drugs and medicines shall be made available only to the resident for whom they have been prescribed.

**32053 NUTRITION AND FOOD SERVICES.**

1. Three nutritionally well-balanced meals shall be served daily at appropriate times, morning, noon and evening in a manner which is attractive and inviting.

2. Not less than 10 hours shall elapse between the first and the last meal of the day. If the evening meal is served before 5:30 p.m., an evening snack shall be provided.

3. Meals shall include sufficient quantity and variety of foods to be satisfying.

4. Meals shall meet recommended dietary allowances of the National Research Council, Food and Nutrition Board. Whichever meal is the lighter served at noon or evening, shall contain at least one hot food.

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**000203**

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

32053 NUTRITION AND FOOD SERVICES (Continued)

5. Meals shall be served in a central dining area and residents there encouraged to eat/with other residents. Tray service shall be provided, if needed, to those residents who have temporary or minor illnesses. Table coverings, dishes and utensils shall be used which make the serving of food attractive and inviting.

6. Special diets of a type which can be prepared and served by the regular kitchen staff shall be provided for all residents who need them, on their physician's instructions.

32055 FOOD PRESERVATION. If the facility preserves any foods for future use by canning, freezing or dehydrating, or accepts gifts of home-preserved food of any kind, care shall be taken to ensure that proper canning methods have been followed.

If the facility accepts home preserved foods as gifts or donations, the following precautions shall be taken:

- a. Only the current year's pack shall be accepted and all foods unused at the end of a year shall be disposed of.
- b. No nonacid vegetables or fruits (such as pears) shall be accepted unless they have been canned by pressure cooking methods.
- c. All containers shall be labeled and dated.
- d. All contributions shall be inspected on receipt and again before use and any questionable foods discarded.

000204

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

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**32057 SOCIAL, RECREATIONAL AND RELIGIOUS ACTIVITIES.** Facilities shall make provisions for social, recreational and religious activities in accordance with the interests and abilities of residents, including but not limited to the following:

1. Residents shall be encouraged to join with other members of the household in various leisure-time activities which are part of normal family life.
2. Residents shall be encouraged and assisted to engage in community activities.
3. Residents shall have the freedom of attending the church of his/her choice. No resident shall be deprived of the right to have visits from the minister, priest, or rabbi of his/her choice.
4. Attendance at religious services held in the facility shall be on a completely voluntary basis.

**Article 5. Safety**

**A. Life Safety**

**32059 DISASTER AND MASS CASUALTY PLAN.** All facilities shall have a disaster and mass casualty plan of action, in the event of a disaster occurring within the facility, or local disaster occurring in the community, or of state of extreme emergency. Such plan shall be in writing and shall include:

1. Designation of authority and emergency assignments.
2. Plan for evacuation or relocation of residents, including:
  - a. means of exiting
  - b. transportation of residents, when necessary

**000205**

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CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

32059 DISASTER AND MASS CASUALTY PLAN (Continued)

- c. supervision of residents after evacuation or relocation
- d. means for contacting local fire department, civil defense and other disaster authorities.

3. Plan for reception of nonresident persons dislocated by disaster and emergencies occurring outside the facility.

All personnel shall be instructed in their duties. Staff instruction shall include practice sessions at regular intervals. New employees shall be informed immediately of their duties, as required in this plan.

The disaster plan shall be conspicuously posted, and kept up to date, and shall be subject to annual review by the appropriate fire safety and civil defense officials.

32061 FIRE SAFETY. All buildings and premises used as residential care homes shall be maintained in conformity with the fire safety laws of the State and the regulations of the State Fire Marshal.

32063 HEATING EQUIPMENT. Heating equipment used to provide warmth required by residents shall be safe.

Gas and other fuel-fired heaters shall be vented and shall be installed and maintained in accordance with the requirements of the State Fire Marshal.

Fireplaces and open-faced heaters shall have screens.

32065 SAFETY REQUIREMENTS. Each facility and surrounding yard or garden shall be free of life and health hazards.

00C206

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

32067 GENERAL SAFETY PRECAUTIONS. Care shall be taken to guard residents from injury due to slippery rugs or floors, unguarded stairs, improperly guarded heaters, etc.

1. Stairways, inclines, ramps, and open porches shall have hand railings and shall be well lighted.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**32067 GENERAL SAFETY PRECAUTIONS (Continued)**

2. Night lights shall be maintained in hallways and nonprivate bathrooms.

3. All outdoor and indoor passageways and stairways shall be kept free of obstruction.

4. Special provision shall be made for the safety and guidance of residents with poor eyesight.

5. The master key to all rooms which may be locked by residents on the inside shall be kept where it is available to the manager and assistants in an emergency.

**B. Supervision**

**32069 QUALIFIED STAFF.** There shall be that number of qualified persons on the premises and within call of the residents as required by the care to be given the number of residents also on the premises.

The licensee shall have an arrangement for the emergency substitution or replacement of those persons required to provide for the care and supervision of residents, when such persons are not available for duty.

**32071 NIGHT SUPERVISION.** In each facility there shall be on the premises and on call a qualified person for emergencies which may occur during normal sleeping hours.

In facilities for sixteen or more persons, there shall be one person awake and on duty and one or more additional persons on call to assist in caring for residents in the event of an emergency or a disaster.

**000208**

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CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

32073 RESTRICTION.

1. No mentally retarded person, mentally ill or mentally confused person shall be placed in charge during any absence of the manager or be assigned to night supervision.

2. When there are changes in the physical or mental condition of any resident which require additional services the facility is unable or is not licensed to provide the licensee shall make arrangements for the resident to be moved to a licensed facility that can provide the additional services.

C. Health

32075 HEALTH EXAMINATIONS FOR NEW RESIDENTS. Each facility shall require prior to final acceptance, a health examination for each prospective resident.

This health examination shall include:

1. A written report of a recent examination from the person's own physician, or from the attending physician or social service department of the hospital, nursing home, or other facility which the prospective resident is leaving.

2. A medical determination that the person is free from active communicable tuberculosis and other contagious or infectious disease .

Exception: The physician's examination and intradermal tuberculin test or chest X-ray may be waived for persons belonging to a faith relying on prayer or other spiritual means of healing, provided all other indications are that the person meets the admission requirement.

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000209

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**32077 CARE DURING EMERGENCY OR ILLNESS.** A physician shall be called at the onset of an illness or in case of accident or injury to a resident. Bedside care shall be provided only for temporary and minor conditions as determined by a physician.

**32079 MEDICATION - ASSISTANCE TO RESIDENTS.** Assistance with medication shall be given, as needed, to a resident with a health condition not requiring the exercise of professional judgment or daily professional observation. Determination shall have been made by a physician that the condition is controllable by an established regime. Assistance shall be limited to:

1. Medications usually prescribed for self-administration which have been authorized by the resident's physician.
2. Assistance with medication during an illness determined by a physician to be temporary and minor.
3. Assistance required because of tremor, failing eyesight and similar conditions.
4. Providing central storage of medication for:
  - a. The preservation of medicines requiring refrigeration.
  - b. Any medication determined by the physician to be hazardous if kept in the personal possession of the resident for whom it was prescribed.
  - c. Medications which because of housing arrangements and the condition of the habits of other residents is determined by the manager to be a safety hazard to other residents.

**000210**

Effective



**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**32079 MEDICATION - ASSISTANCE TO RESIDENTS (Continued)**

Centrally stored medicines shall be kept in a safe place which is not accessible to persons other than staff responsible for health supervision. Each container shall carry the name of the resident for whom prescribed and the physician's instructions.

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

Article 6. Buildings and Grounds

32081 GENERAL BUILDING REQUIREMENTS.

1. Buildings shall conform to all applicable state laws and regulations on fire and life safety, housing and sanitation.

2. Buildings used for care of residents shall be safe and suitable for the purpose for which they are intended and shall be maintained in a good state of repair.

3. Sufficient room shall be available to accommodate residents in comfort and safety.

4. All rooms shall be well lighted, heated and ventilated.

5. Elevators shall be provided in buildings of more than two stories except those in which the first floor is the garage, when the third or higher floors are used by aging residents or other residents for whom climbing stairs is medically difficult.

32083 MAJOR ALTERATIONS TO BUILDINGS OR NEW CONSTRUCTION. The licensee shall be responsible for discussing with the licensing agency plans for additions to buildings or new construction to be used for housing other services for residents. Before construction is started, assurance shall be obtained that the proposed additions and/or alterations conform with licensing standards.

Plans for <sup>large</sup> residential care homes (for sixteen or more persons) shall be prepared by a licensed architect or registered civil engineer. Fire codes and building codes used in the design of the building shall be noted on the plans submitted. Certification by the architect or engineer, or by the local building official, that the plans meet the building construction standards of the codes mentioned shall accompany the plans.

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000212

CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

32085 OFFICE SPACE - LARGE RESIDENTIAL CARE HOMES. Sufficient administrative office space shall be provided:

1. For the clerical, financial and managerial functions.
2. For the conduct of the business of the facility, for privacy in interviewing applicants, and for discussions with relatives.
3. In facilities for more than 20 residents, private offices for the manager or superintendent and for any social work or counseling staff.

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32087 KITCHEN. The kitchen shall be conveniently located for the preparation and serving of meals at proper temperatures.

(1) Provision shall be made for the refrigeration of perishable food and the proper storage of other supplies; (2) for the sanitary preparation and serving of meals, washing of dishes and cooking utensils; and (3) for the sanitary disposal of garbage.

There shall not be a connecting door between a toilet and a room in which food is stored or prepared.

000213

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**32087 KITCHEN (Continued)**

The kitchen shall not be used as a passageway to a bedroom, bath or toilet, or as a sleeping room at any time.

**32089 LIVING ROOM.** Every facility shall have a living room area for the use of residents. Sufficient space shall be provided for residents to assemble for social or other group activities.

The living area shall be comfortably and attractively furnished and available to all residents for relaxation and leisure time occupations.

The living room shall not be used regularly as a bedroom for any member of the household or for a resident.

**32091 DINING ROOM.** Every facility shall have a dining area suitably furnished for group meal service. The dining area shall have a minimum of 15 square feet of floor area per occupant.

The room in which the dining area is located shall not be used as a bedroom by any member of the household or for a resident.

**32093 SLEEPING ACCOMMODATIONS.**

a. Bedrooms suitably furnished and sufficient in number and size to accommodate the residents of the facility shall be provided. Bedrooms shall not be used for occupancy by more than two adults. Exception: facilities for the sole care of adults age 18 to 65 in operation on

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CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATION  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

32093 SLEEPING ACCOMMODATIONS (Continued)

the effective date of this regulation shall not have more than 4 persons per bedroom and shall reduce occupancy to not more than two persons per bedroom by July 1, 1973.

b. Notwithstanding the exception in item a. above, private bedrooms shall have a minimum of 100 square feet of superficial floor area per resident. Bedrooms for two or more residents shall have a minimum of 70 square feet of superficial floor area per resident.

c. Location of Bedrooms. No unfinished attic, stairway, hall or room commonly used for other purposes shall be used as a sleeping room for any resident.

d. No bedroom shall be used as a passageway to another room, bath or toilet.

e. Bedrooms located above the first floor shall be restricted to occupancy by residents who can climb stairs easily.

f. Bedrooms in detached buildings shall be restricted to occupancy by residents who are mentally and physically active.

g. Furnishings. Individual beds shall be provided for each resident except married couples.

h. Each bed shall be furnished with good springs, a clean comfortable mattress and adequate, light, warm bedding.

i. Closets and drawer space shall be provided for the clothing and for the personal belongings of the residents.

Effective

000215

CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE  
(Pursuant to Government Code Section 11380.1)

32093 SLEEPING ACCOMMODATIONS (Continued)

j. Size of Bedrooms. Bedrooms shall be large enough for the placement of needed furniture and to allow for easy passage between beds and other items of furniture.

32095 BATH AND TOILET FACILITIES. Bathrooms and toilets shall be conveniently located.

Ratio: In buildings newly licensed, and in buildings licensed for an increased capacity, after the effective date of this regulation, the ratio of bath and toilet facilities to occupants shall be:

1. At least one bathtub and/or shower for each ten household members (i.e., residents, family, and assistants), and at least one tub or shower in each building occupied by one or more residents.

2. At least one toilet and washbowl for each four household members and daytime personnel. Exception: facilities licensed prior to the effective date of this regulation shall be permitted to have a ratio of one to six.

32097 GROUNDS.

1. All Facilities. There shall be yard space which is easily accessible and protected from traffic. An enclosed garden shall not be a pen or a prison. Gardens or yards enclosed for safety shall be roomy, pleasant and comfortable, and appropriately equipped for outdoor use.

000216

Effective

CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

32097      GROUNDS. (Continued)

2. Large Residential Care Homes. There shall be sufficient grounds surrounding or adjacent to the buildings to provide space for delivery areas, service yards, off-street parking, as needed, and for outdoor recreation areas. Delivery areas, service yards and parking areas shall be located so that traffic does not cross areas commonly used by residents.

32099      LAUNDRY AND SEWING ROOMS.- LARGE RESIDENTIAL CARE HOMES.

There shall be space provided for washing, ironing, mending of residents' personal clothing, preferably so arranged that residents who are able and who desire to, may do their own work.

32101      DOCTOR'S EXAMINING ROOM - LARGE RESIDENTIAL CARE HOMES.

Facilities without an infirmary unit or a nursing home section shall make provision for privacy for doctor's visits, examinations, and consultations in the facility.

32103      HOUSEKEEPING AND SERVICE FACILITIES - LARGE RESIDENTIAL CARE

HOMES. Space, equipment and supplies as needed shall be provided for the necessary housekeeping and maintenance of the facility.

Janitor's sinks, closets for cleaning supplies, work rooms for maintenance men, linen closets, storerooms for luggage, furniture replacements etc., shall be provided and located as conveniently as possible for efficient use.

000217

Effective

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**CHAPTER 6. Continuing Care Agreements**

**SUBCHAPTER 1. APPLICATION REQUIREMENTS FOR  
CERTIFICATE OF AUTHORITY**

**Article 1. Definitions**

**33001. CARE (OR SERVICES).** Care (or services) means those minimum services or standards required as a condition of licensing by the licensing agency having jurisdiction.

**33003. CONTINUING CARE.** For purposes of the regulations "life care" shall mean the same as and be referred to as "continuing care," meeting the requirements set forth in Sections 16300 through 16318, Welfare and Institutions Code.

The provision of care to an aged person based upon the requirement of transfer of any consideration by or on behalf of the aged person is subject to the life care statutes and the regulations in Chapters 8 and 9 if:

1. The agreed-upon care is promised for a period which expressly or by necessary implication exceeds one year.

2. In making the determination whether or not care is promised for a period exceeding one year, the department will give weight to the following:

(a) Whether the advance payment, or promise of payment, exceeds one year's cost of the agreed-upon services, based upon the per capita cost of such services.

(b) Whether the provider of care has made or is making a representation to the public, whether generally or to special groups, or to individuals, and whether orally or in writing, that care will be provided for life or for an indefinite period of time exceeding one year.

To be subject to the continuing care regulations, the provider of care need not offer or arrange to provide all of the services required as a condition of licensing to each of its residents as long as it is subject to the licensing jurisdiction of one of the state or local licensing agencies.

The right of an aged person to contract for services which may be needed at a later date and pay only when utilized does not preclude the arrangement from being continuing care.

Only the per capita cost of the agreed-upon services shall be included in the determination of whether an advance payment, or promise of payment, exceeds one year's cost of care.

**33005. CONTINUING CARE AGREEMENT.** An agreement executed by a provider of care (or services) and an aged person or by a relative or agent on his behalf

is referred to as continuing care agreement.

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**000218**



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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

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**33007. ACCOMMODATION LEASE (FORMERLY CALLED LIFE LEASE).** An accommodation lease arrangement is a landlord-tenant relationship wherein the tenant obtains only the right to possess a defined living unit for life. In an accommodation lease there is no obligation, nor intent, to provide care and services to the tenant at any time, present or future. A provision which gives the tenant the option to purchase care and services from the landlord, or to have the landlord arrange for such services, at any time during the life of the agreement constitutes continuing care if aged persons are involved.

**33009. MONTHLY RESIDENTIAL HOME, BOARDING OR NURSING HOME CARE.** The provision of care (or services) to aged persons on a month-to-month basis is not subject to the life care statutes and the regulations of this chapter if payment for the agreed-upon services is made on a month-to-month basis.

**33011. PER CAPITA COST.** In general usage, the per capita cost refers to the prorata (proportionate) distribution of a home's operating expenses on the basis of the average number of residents. The annual distribution of operating expenses is based upon expenditures for the fiscal year.

(a) **Operating Expenses.** Operating expenses for the fiscal year include all costs incurred to house and care for all residents. Included are costs of food services, housekeeping, grounds and gardens, general plant and equipment, utilities, health and medical services, resident programs, insurance, general and administrative, community services, interest on mortgages and loans, services-in-kind (i.e., donated services) and depreciation.

Costs of major alterations and repairs which are capitalized are not included in operating expenses.

Expenses of maintaining investment properties or outside real estate not related to the care of residents are not included in operating expenses.

Certain costs which are not expenses of providing housing and care of the residents are to be excluded from operating costs by abating (deducting) the income or revenue from the operational expenses. These items include reimbursements: from employees for housekeeping rooms and meals, from guests for guestrooms and meals, from incidental charges collected by the home when it acts merely as a collection agent for third parties (i.e., payments for newspapers, magazines, telephone service, beauty parlor and barbershop services), and from fees paid by nonresidents such as fees collected at programs conducted by the home. In addition, the amount received as processing or filing fees is abated from general and administrative costs.

(b) **Average Number of Residents.** The average number of residents is determined by adding the beginning and ending number of residents for the fiscal year and dividing by two. An employee who is required to live in the home as a condition of employment is not to be considered a resident.

000219

Effective

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33011. PER CAPITA COST. (Continued)**

For homes whose resident population fluctuates from month to month and for homes in their first year of operation, the average number of residents may be computed by adding the number of residents at the end of each month in the fiscal year and dividing by the total number of months included.

The daily attendance for the fiscal year may also be used to determine the average number of residents.

(c) **For Refunds.** For purposes of determining refunds under Section 16308 (W&I Code), the per capita cost (general usage) shall exclude services-in-kind (i.e., donated services).

(d) **For Reserves.** For purposes of determining reserves under Section 16304 (W&I Code), the per capita cost (general usage) shall exclude:

1. depreciation,
2. services-in-kind,
3. subsidies, and
4. community services.

(e) **Depreciation.** Depreciation of equipment, furniture, furnishings, buildings, and building improvements shall be based upon historical costs, using the straight-line method.

(f) **Home With Medical Facility.** If separate accounting records are maintained for the home's medical facility, the operating expenses will include the pro rata share of costs applicable to persons living in the residential section. If only one set of accounting records is maintained and the medical facility is open to nonresidents, revenue from nonresidents shall be abated (deducted) from the operating expenses.

(g) **Central Operation of Multiple Facilities.** Organizations which operate several residential facilities under the general direction of central administrative staff (even though not located within the same city) are permitted to combine operating expenses of all their facilities to arrive at one per capita cost for use by all of their facilities.

(h) A proprietary home may, in establishing the cost of care, include a reasonable amount representing its margin of profit. This amount shall be clearly identified and shall be excluded in the determination of reserve requirements pursuant to Welfare and Institutions Code Section 16304.

**33013. LICENSING AGENCY.** The licensing agency may be the State Department of Social Welfare, Public Health, or Mental Hygiene, or a county licensing agency which issues a license or permit to maintain or conduct a (residential care home, a nursing or convalescent home, or a hospital) for the reception and care of aged persons.

**33015. LEGAL ENTITY.** As used in these regulations, legal entity means a sole proprietorship, corporation, partnership, association, joint venture or other organization specifically designated as the licensee responsible for the facility's policy and operation.

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**33017. LICENSEE.** Licensee is the legal entity which is given authority by a state or local licensing agency to operate a residential care home, boarding home, nursing or convalescent home, hospital or related facility.

**33019. HOME OR FACILITY.** Home, facility, institution, corporation, licensee or certificate holder may be used interchangeably to designate the organization or person who receives and cares for aged persons.

**33021. CERTIFICATE OF AUTHORITY.** A Certificate of Authority is written authorization by the department authorizing a licensed organization or person to enter into continuing care agreements to furnish care (or services) to aged persons for a period of more than one year or for life. As a condition for the issuance and retention of the authorization, the organization or person agrees to conform to all of the rules and regulations of the department. The authorization is also referred to as the "certificate" and the licensee is referred to as the "certificate holder."

**33023. PERSONNEL OF THE HOME.** References to personnel of the home or facility includes all persons connected with the management or operation of the home or facility. This includes persons who control the activities or resources in any way, such as officers and directors of the home as well as those of the parent organization.

**33025. APPLICANT.** An applicant is an organization or person applying for authorization (Certificate of Authority) to enter into continuing care agreements to furnish care (or services) to aged persons for a period of more than one year or for life. OR an organization or person applying for a permit to issue and sell deposit subscriptions on continuing care agreements.

**33027. CARE FEE.** The care fee is that payment made by, or on behalf of, an aged person to a person or an organization operating an establishment licensed by the appropriate licensing agency which, generally, is payment for services and commodities provided by the facility.

(a) **Monthly Care Fee.** The monthly care fee is the fee paid each month for services to be provided during the period covered by the agreement.

(b) **Lump-Sum Continuing Care Fee.** The lump-sum continuing care fee is an advance payment made for future services to be rendered to the resident during the period covered by the agreement. In some cases, this fee may be paid in installments.

**33029. ACCOMMODATION FEE.** An Accommodation fee is an advance payment or transfer of a specified amount of funds or property by, or on behalf of, an aged person to a facility as full or partial payment for the promise to provide accommodations. In some cases, this fee may be paid in installments.

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**33029. ACCOMMODATION FEE. (Continued)**

An advance payment which falls within the scope of this definition may also be called a founder's contribution, a capital sharing fee, an entrance fee or some other term.

Where the facility quotes only one sum to be paid in advance, without making any distinction between the portion representing the continuing care fee and the portion representing the accommodation fee, either one of these terms may be used for the advance payment.

**33031. PROCESSING FEE.** A processing or filing fee is an advance payment which may be retained by the facility to cover administrative costs of processing the application. To collect a processing fee, the facility must be licensed by the appropriate licensing agency or else it must have a permit. The processing fee is not considered an advance payment.

**33033. APPLICATION DEPOSIT.** An application deposit is a sum of money paid by or on behalf of an aged person representing an advance payment on any fees charged by the facility (accommodation fee or lump-sum care fee).

Applicants are not permitted to collect any funds, including the processing fee, until the permit is issued.

The application deposit is returned to the aged person if the aged person is found to be unacceptable for admittance to the facility or if the application is withdrawn by the aged person prior to execution of the continuing care agreement.

The amount of the application deposit may not exceed one year's per capita cost of care unless there is a separate agreement stipulating that the deposit is a loan to the facility for either a specified period of time or until an available vacancy occurs. The loan commitment should specify any interest to be paid.

**33035. DEPOSIT SUBSCRIPTION.** A deposit subscription on a continuing care agreement is an agreement by a prospective resident who has applied for and has been preliminarily accepted by an organization or person who plans to construct a facility for the reception and care of aged persons.

The deposit subscription agreement assumes that the permittee will obtain a license and the Certificate of Authority and the prospective resident promises to execute a continuing care agreement if the license and certificate are obtained.

The prospective resident makes payments, which are impounded, as construction progresses on the facility with the total subscribed amount to be paid up by the time living accommodations are available for occupancy.

Article 2. General Provisions

**33037. WHO MAY CONTRACT.** Any person, association or corporation may apply to the State Department of Social Welfare for a Certificate of Authority to contract to provide an aged person with

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**33037. WHO MAY CONTRACT. (Continued)**

continuing care or care for a period of more than one year provided such applicant has received a license to maintain or conduct a facility for the reception and care of aged persons. The license shall be one issued by the licensing agency having jurisdiction.

**33039. FACILITIES FOR THE AGED NOT REQUIRED TO HAVE A CERTIFICATE OF AUTHORITY.** A certificate is not required when care of the aged is given by any of the following persons:

(a) Son, daughter, grandchild, brother or sister of the aged person, and spouses of such persons (including step, half and adopted relatives of same).

(b) Close friends and relatives in a shared living arrangement, when the services are identical to the living arrangement and the aged person was not received into the home of the friend or relative for the purpose of care.

(c) Legally appointed guardian or conservator of the person.

**33041. OPERATION WITHOUT A CERTIFICATE OF AUTHORITY.** A person or corporation who receives transfers of funds or property from an aged person conditioned upon an agreement to furnish continuing care or care for a period of more than one year without first receiving a Certificate of Authority from the department shall be referred to the district attorney for action. (Section 16318, W&I Code.)

**33043. ADVERTISING.** Any report, circular, public announcement, certificate, financial statement, or any other printed matter or advertising material, which is designed for or used to solicit or induce persons to enter into a continuing care agreement, shall be governed by the provisions of Section 16317 of the Welfare and Institutions Code and 17500 of the Business and Professions Code. The listing of officers and administrators does not require such statements.

(a) **Advertising (New Homes).** A copy of any prospectus or advertising material prepared for distribution or publication shall be submitted with a new facility's application for a certificate, or as soon thereafter as possible.

**33045. PUBLIC INFORMATION.** Annual audit reports which must be filed with the department are public information and information contained in the audit report may be provided upon request.

Information that an application for a Certificate of Authority has been filed, that a certificate has been granted or denied, and the type of care offered **by the facility (type as distinguished from quality)** is public information and shall be provided upon request.

Other departmental records and/or reports pertaining to facilities shall be confidential.

**33047. ADVANCE COLLECTION OF FUNDS.** Before any funds may be collected for the construction of a proposed facility for aged persons (e.g., processing fee, deposits, etc.), the person or corpo-

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**33051. APPLICATION FOR CERTIFICATE OF  
AUTHORITY. (Continued)**

deposit subscriptions unless the applicant posts a performance bond in accordance with Section 16302 (W&I Code). Funds shall be subject to all of the impound regulations.

**33053. FILING OF APPLICATION FOR CERTIFICATE OF AUTHORITY.** (a) **Single Application.** A single application shall be required if the applicant plans to utilize in their operations buildings located at different addresses in close proximity to each other (adjacent or across the street).

No application is required for proposed alterations and/or additions to present structures if the changes or additions are covered by the current license under an amended application with the appropriate licensing agency.

(b) **Buildings at Different Locations.** Separate applications shall be required: (1) for the operation of two or more facilities located on the same premises if operations are administratively independent of each other, (2) for buildings or facilities at different locations whether construction is simultaneous or at different times, and (3) for new buildings or facilities added on the same premises.

(c) **Corporation Organizational Change.** If the certificate holder is a corporation which undergoes an organizational change (e.g., change in structure, separation from a parent company, merger with another company, etc.), a new application shall be required and a new certificate must be issued by the department before any continuing care agreements may be executed by the new corporation. In the absence of a complete novation (the substitution of a new legal obligation for an old one), the old corporation shall not be released from prior obligations under continuing care agreements. The old corporation is required to set up a trust fund or to secure a performance bond to ensure the fulfillment of all contractual obligations.

(d) **Corporation Name Change.** A new application is not required for a corporation name change. If the certificate holder is a corporation which has a name change, the department shall be notified of the name change and the old certificate shall be returned by the corporation for reissuance under the new corporate name.

**33055. CONFORMITY WITH ALL REGULATIONS.** Eligibility for a Certificate of Authority is dependent upon conformity with all applicable statutes and regulations.

**33057. DENIAL OF CERTIFICATE.** When it is necessary to recommend denial of a Certificate of Authority, this action shall be carefully discussed with the applicant. Unless the applicant elects to withdraw his or her application for certificate, a letter of denial shall be sent to the applicant confirming the prior discussion. If an appeal is filed, further proceedings will be conducted in accordance with the Administrative Procedure Act.

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**33059. ISSUANCE OF CERTIFICATE.** The certificate may not be issued prior to the issuance date of the license since the license is a prerequisite for obtaining the certificate. (See Section 16300 of the Welfare and Institutions Code.)

The Certificate of Authority remains in force until suspended, revoked or voluntarily returned to the department. The certificate shall show the name of the person or organization authorized to execute continuing care agreements and the address (location) of the facility. The certificate is contingent upon the licensee receiving and maintaining an annual license.

**33061. TERMS OF THE CERTIFICATE.** The certificate shall specify that the number of continuing care agreements maintained by the facility may not exceed the number of residents for which all licenses at a particular location, are effective. This includes licenses issued by SDSW, SDPH, SDMH or a county licensing agency. Residents who are permanently transferred to a nursing home or other facility but are still under contract with the licensee are excluded from the permissible limit if reassignment of the accommodations is permitted by the agreement.

Any decreases or increases in capacity which are authorized by an amended license(s) automatically apply to the number of contracts permitted by the certificate. The certificate is valid only for the named person or corporation and the specific facility.

A limited certificate may be issued in cases where the facility wishes to limit the number of agreements it will execute. A certificate may also be restricted to apply to agreements with specific individuals only.

**33063. POSTING OF CERTIFICATE.** The certificate shall be posted in a conspicuous place in the facility where it may be easily and conveniently seen and read by prospective residents prior to the execution of any continuing care agreements.

**33065. CONDITIONAL CERTIFICATE.** If the applicant meets all of the requirements for a certificate except the statutory reserve requirement at the time of application and the plan of operation shows that reserve requirements can be expected to be met in a few years, a conditional certificate valid for a period of two years may be issued.

If an applicant who meets all requirements for a certificate except the statutory reserve requirement posts a performance bond in accordance with Section 16302 (W&I Code), a permanent certificate shall be issued.

The applicant who meets all of the requirements for a certificate, including the reserve requirement, shall be issued a permanent certificate.

**33067. WITHDRAWAL OF APPLICATION.** An applicant may withdraw his application for a Certificate of Authority at any time. An oral request for withdrawal of an application shall be confirmed in writing by the department.

000226

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**33069. SALE, LEASE OR RENTAL OF FACILITY.** If a certificate holder plans to sell the facility, transfer ownership, lease or rent the facility to others, he shall first obtain written approval of the SDSW. In the absence of a complete novation (the substitution of a new legal obligation for an old one), the certificate holder is required to set up a trust fund or to secure a performance bond to ensure the fulfillment of all contractual obligations. The certificate holder shall be notified by the department that the certificate is revoked by transfer of ownership and shall be requested to return his certificate.

The potential new operator must obtain a license and the Certificate of Authority before executing any continuing care agreements.

**33071. BASIS FOR SUSPENSION OR REVOCATION OF CERTIFICATE.** (a) Suspension. A Certificate of Authority may be suspended by the department for, but not limited to, the following causes:

(1) Failure to establish and maintain the required reserves.

(2) Failure to provide all of the services, goods or accommodations in accordance with the terms of continuing care agreements.

(3) Failure to submit agreement form changes in the terms or conditions of continuing care agreements, or of any other agreement with residents, to the department for prior approval.

(4) Failure to submit the required annual audit.

(5) Failure to permit a duly authorized representative of the department to inspect and examine the facility, its books and records or the performance of any service required pursuant to the continuing care agreements.

(6) Failure or refusal to correct a life or health hazard within the time limit established (e.g., a reasonable period) after the facility has been notified evidence of mistreatment or neglect of aged persons, either physical or emotional, requires correction.

(b) Revocation. A Certificate of Authority shall be revoked by the department for, but not limited to, the following causes:

(1) Failure to meet the licensing requirements or to hold a valid license.

(2) Transfer of ownership, sale, lease or rental of the facility to another party.

(3) Failure to obtain and to maintain in effect any surety or performance bond which may be required by the department.

(4) Failure to obtain the department's approval prior to changing the place of performance (care) except in circumstances where residents are removed for medical treatment or other emergency.

(5) Changes in corporate identity without approval of the department.

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**33073. SUSPENSION OR REVOCATION OF CERTIFICATE.**

Any anticipated suspension or revocation of a Certificate of Authority shall be discussed with the certificate holder in advance. The discussion will be confirmed by a registered letter to the certificate holder if the department determines that there is cause to suspend or revoke the certificate. This letter will:

- (a) State that the certificate is suspended or revoked and to request its return;
- (b) List the reasons for the suspension or revocation; and
- (c) Review the right of appeal and the 30-day time limit for filing an appeal.

If an appeal is filed, further proceedings will be conducted in accordance with the Administrative Procedure Act.

When a certificate is suspended, revoked or voluntarily returned to the department, the former certificate holder is not authorized to execute any new agreements. However, the former certificate holder may reapply for a certificate whenever he feels he qualifies.

If the facility continues to execute continuing care agreements after suspension or revocation of the certificate, the department shall request the district attorney to prosecute.

**33075. LIEN BY THE DEPARTMENT.**

The department may record a notice of lien (with the county recorder) on all property of the facility on behalf of continuing care residents when considered advisable to protect their interest.

The department shall file a release of the lien upon proof of complete performance of all continuing care agreements executed by the certificate holder, upon the filing of a surety (performance) bond meeting the conditions set forth in Section 16302 of the Welfare and Institutions Code, or upon the establishment of an appropriate trust fund account on behalf of the continuing care residents.

The certificate holder may appeal from a refusal by the department for release of the lien. If an appeal is filed, further proceedings will be conducted in accordance with the Administrative Procedure Act.

000228

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WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**SUBCHAPTER 2. REQUIREMENTS FOR CONTINUING CARE  
AGREEMENTS**

**Article 1. General Provisions and Definitions**

**33077. WRITTEN AGREEMENTS.** All continuing care agreements shall be in writing and the agreement "form" shall require the approval of the department prior to their use by a facility. The agreements are reviewed by the department for (a) legal conformity, (b) fiscal requirements, and (c) licensing requirements.

The forms of any exhibit, addendum or attachment referred to or incorporated by reference in the agreement shall be submitted to the department when the agreement form is submitted for approval. Facilities licensed by the State Department of Social Welfare shall submit the forms, in duplicate, to the licensing representative.

If the agreement is to be used for several types of plans offered by the facility, e.g., continuing care, monthly boarding, or accommodation lease, the agreement shall be clearly written so as not to be confusing to a rational, aged person and/or a responsible relative or friend. If this cannot be done, the agreement shall be printed as separate documents.

The legal name of a corporation shall be used in the agreement as one of the contracting parties. The name under which the facility is doing business may be used in the agreement as part of the address.

**33079. APPROVALS.** The responsibility of issuing approval on continuing care agreements lies with the Fiscal Division. Comments by legal and licensing staff of the department shall be forwarded to the Fiscal Division for attachment or inclusion in a single letter to the facility.

**33081. MORE THAN ONE TYPE OF AGREEMENT.** A facility may use different agreements within their operation, e.g., for residents who are monthly room and board; for residents who make a lump-sum deposit, but do not qualify as "continuing care," for residents who use funds from the sale of their home for the initial deposit and are accepted at reduced monthly rates; and for general admission as continuing care residents.

**33083. PRINTING.** Agreements should be printed in clear, legible print, preferably no smaller than standard (elite type) typewriter, and worded in simple, understandable terms. Each paragraph should deal with only one subject. Captions in larger type print shall be used.

**33085. PAYMENTS FOR CONTINUING CARE AGREEMENTS.** The method of payment for continuing care agreements generally falls into three main types:

(a) A lump-sum payment which covers both the accommodation and care services (also called totally prepaid).

(b) A lump-sum payment which covers the accommodation and the payment of monthly fees to cover the cost of care.

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**33085. PAYMENTS FOR CONTINUING CARE AGREEMENTS  
(Continued)**

(c) The transfer of all property and assets including any property or income the prospective resident may receive in the future.

**33087. ADMISSION AGREEMENT.** In lieu of having a separate admission agreement, the facility shall include all items required by licensing regulations in the continuing care agreement.

**33089. AGREEMENT FORMS REQUIRE PRIOR APPROVAL.** The form and content of continuing care agreements require prior approval and any revision required by the department shall be made by the home before a certificate can be issued. Continuing care agreements cannot be executed prior to the issuance of a Certificate of Authority.

Notification of the department's approval on all aspects of the agreement (legal, fiscal and licensing) shall be transmitted to the facility by a single letter from the Fiscal Division.

**33091. CHANGES IN CONTINUING CARE AGREEMENTS.** Changes or revisions to forms of continuing care agreements require the department's prior written approval.

**Article 2. Provisions Required in Continuing Care Agreements**

**33093. NEW CONTINUING CARE AGREEMENTS.** Any facility which begins operations after the effective date of these regulations shall meet all of the regulations of the department and shall incorporate the provisions of Article 2 immediately. Revisions shall be submitted through the appropriate licensing representative in duplicate copies.

**33095. PERTINENT INFORMATION AND RECITALS.** The continuing care agreement should be appropriately headed, followed by the pertinent date and designations.

Recitals should begin with a statement of basic philosophy, function and purpose of the corporation or facility. As a minimum the recitals shall include the age of persons eligible for admission, facility regulations applicable to the resident and the location of the facility.

Preliminary acceptance of the resident as a member of the facility should be clearly shown in the recital. If the resident is accepted by the facility at the time the agreement is executed, the facility is permitted to retain the accommodation fee and the continuing care fee in the event of death of the member during the probationary or trial period. At

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**33095. PERTINENT INFORMATION AND RECITALS.**  
(Continued)

some point in the contract, a statement similar to the following would be required to support this action. "Upon the death of Resident, all accommodation fees and all funds deposited for the continuing care agreement of Resident shall remain the property of the Corporation."

**33097. DUPLICATE COPY OF AGREEMENT.** The continuing care agreement shall be properly filled out and prepared in duplicate. A duplicate of the original shall be returned to the resident and the original shall be retained by the facility.

**33099. NONDISCRIMINATION CLAUSE.** The continuing care agreement shall contain a nondiscrimination clause which specifies the facility is operated on a nondiscriminatory basis according to equal treatment and access to services without regard to race, color, religion, national origin or ancestry.

Admission criteria shall permit the exclusion of individuals who for reasons other than race, color, religion, national origin or ancestry are unsuitable for admission. This may include physical or mental conditions of the individuals.

A nonprofit facility established and operated for members of a particular group as a membership facility may limit admissions to members of an identified group. Membership facility include those operated:

- (a) For members of a fraternal organization,
- (b) For members with prior service in a particular profession or occupation,
- (c) For members of a particular cultural or ethnic group, and
- (d) For a particular organization to serve its needy members.

**33101. SERVICES.** The agreement must list all of the basic services and items which are to be provided by the facility and/or corporation and shall state whether such items will be provided for a designated period of time or for life. It shall clearly specify the services, if any, for which additional charges will be made. A separate statement of all services for which additional charges will be made and the fees for such services shall be given to the resident.

The aged person may wish to initially contract for only one of the minimum services (required as a condition of licensing by one of the licensing agencies) with the possibility of expansion to include any or all other services as needed.

In the event that certain specific services or items normally included in the general description of a service are excluded, such exclusions shall be clearly designated in the agreement, e.g., if ophthalmological or psychiatric services are excluded from the scope of medical services, the agreement shall so specify.

Although the agreement may exclude treatment of medical or surgical conditions which exist at the time the resident is admitted to the facility, the facility is not precluded from providing it. Since the failure to do so might encourage disability, such a policy would be more expensive to the facility in the long run as early treatment and care may prevent expensive custodial care during the resident's remaining years.

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WITH THE SECRETARY OF STATE**

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**33101. SERVICES. (Continued)**

The agreement may stipulate that the facility's responsibility for payment of hospital or medical care accrues only after any health insurance under the Social Security Act or any privately owned insurance held by the resident has been applied to the cost of hospital or medical care.

The following items may be enumerated in the services offered by the facility in the agreement:

- (1) A designated unit or living accommodation.
- (2) Provision for three nutritionally well-balanced meals a day showing places or locations where meals will be served.
- (3) Special dietary foods which can be prepared and served by the regular kitchen staff, as authorized by a physician.
- (4) Provision for general cleaning and housekeeping functions.
- (5) Provision for social, recreational, educational, cultural and religious services.
- (6) Assistance or help with personal care such as bathing, dressing, care of the hair, shaving, eating, care of clothing, mending, laundry, personal shopping, transportation, incidental services, etc.
- (7) Bedside care, including tray service, for temporary illnesses.
- (8) Assistance with medication, as needed, which has been authorized by a physician for self-medication and does not require the exercise of professional judgment.
- (9) Utilities, including air-conditioning but excluding telephone service.
- (10) Laundry and linen service (stating number of items and/or frequency).
- (11) Availability of laundry facilities and equipment for personal self-service by residents.
- (12) Garden or yard maintenance.
- (13) Use of all general facilities such as lounge, sunroom, craft rooms, launderette centers, lobby facilities, library and chapel.
- (14) Furnishings, carpeting, drapes and/or stipulation that furnishings by the resident are to be approved by the home.
- (15) Professional nursing services in homes which have nursing sections licensed by the State Department of Public Health.
- (16) Services of a staff physician.
- (17) Medical care services and/or limitations.
- (18) Provision for emergency care by a licensed physician, clinic or hospital in case of accident or injury and whenever resident's physician cannot be reached.
- (19) Upon request of the resident, his or her designated physician will be called (costs to be borne by the resident).

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**33103. COMPLIANCE WITH CONTINUING CARE AGREEMENTS.** A facility which has entered into continuing care agreements must comply with the provisions of each such agreement and must meet the reserve requirements set forth in Section 16304, Welfare and Institutions Code, regardless of whether or not the facility holds, or continues to hold, a valid Certificate of Authority from the State Department of Social Welfare. The suspension, revocation or voluntary return of the Certificate of Authority does not release the facility from obligations assumed at the time the continuing care agreements were executed.

**33105. FEES.** The agreement must show all properties transferred and their value at the time of transfer, including but not limited to subscriptions, fees and any other amounts paid or payable by, or on behalf of, the aged person. An itemized receipt is not sufficient unless it is made a part of the agreement.

The agreement should show the amount deposited as the accommodation fee and the amount of any lump-sum care fee and/or the monthly care fee. In addition, the processing fee should also be shown separately. The due date of the monthly fee, if any, is required. The agreement shall specify if payments are to be made in advance.

**33107. PROBATIONARY OR TRIAL PERIOD.** Every continuing care agreement, except those which provide for the voluntary withdrawal by a resident at any time with provision for a refund in accordance with Section 16308 of the Welfare and Institutions Code, shall include provision for a specified probationary or trial period.

A trial residence period of at least three months, and preferably no longer than six months, shall be provided to allow both the aged person and the facility time to evaluate the advisability of permanent residence. The probationary period provides a means of judging the adaptability of the individual to congregate living.

A period of residence in the facility for at least three months immediately preceding the signing of the continuing care agreement (i.e., residence as a monthly boarder) meets the requirement for a probationary period. Agreements executed after this three-month trial period of residence must contain a statement that the probationary period was completed prior to the signing of the agreement.

Either party may conclude the arrangement within this period of his own volition without penalty to the aged person. The following provisions apply to the probationary period:

(a) No advance notice of termination is required of the resident. The cancellation or termination notice is required to be in writing if the agreement so stipulates.

(b) The facility may specify it will give the resident advance notice of dismissal so as not to cause undue hardship on the aged person.

(c) The resident shall be allowed to withdraw regardless of his or her health status.

(d) The agreement may be canceled at the option of either party, with or without cause.

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**33107. PROBATIONARY OR TRIAL PERIOD.  
(Continued)**

(e) Refund to the resident shall be in accordance with Section 16308, W&I Code.

(f) Penalties, forfeitures, fines or any provision which fixes damages are not permitted.

**33109. DISMISSAL AFTER THE PROBATIONARY PERIOD.** Dismissal or discharge of the resident after the completion of the probationary or trial period shall be only for good and sufficient cause.

**33111. TERMINATION NOTICE.** The length of termination notice to be given, if any, shall be specified in the agreement.

(a) **During the Probationary Period.** The facility should give advance notice of dismissal or discharge to the resident during the probationary period even though either party is allowed to withdraw from the agreement without giving advance notice to the other.

(b) **After Termination of the Probationary Period.** The agreement shall specify the amount of termination notice required of either party after termination of the probationary period. A minimum notice of at least 30 days shall be required of the facility.

**33113. REFUND POLICY.** The refund policy shall be clearly stated and mutually understood by the contracting parties. The refund policy shall cover the following:

(a) The probationary or trial period,

(b) Dismissal or discharge of the resident by the facility after the probationary period, and

(c) Voluntary withdrawal by the resident after the probationary period.

In addition, the agreement shall clearly specify the effective policy upon the death of the resident.

Items (a) and (b) above require a refund in accordance with Section 16308 (W&I Code) unless the facility makes a more favorable settlement. In cases of voluntary withdrawal by the resident, Item (c), the parties are free to contract as they desire for any refund. There shall be a reasonable amortization period of any prepaid or lump-sum fees, subject to the department's approval. The policy to be adopted is a matter for each facility to determine.

In the event two parties have jointly paid either the accommodation fee and/or a lump-sum care fee without segregating any part of said fee, or fees, for any particular person, the agreement should give notice that one-half of the fee, or fees, so paid shall be deemed to be paid on behalf of each resident.

The agreement shall show the conditions under which any accommodation fee or lump-sum care payment will be refunded. A different refund policy may be permitted for use by the facility for persons who use funds from the sale of their facility for the initial deposit or accommodation fee when acceptance by the facility is at reduced monthly rates (i.e., at monthly rates less than those charged other residents).

**33115. AMORTIZATION RATE.** Factors used in determining a proper rate at which the accommodation fee and the lump-sum care

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WITH THE SECRETARY OF STATE**

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**33115. AUTHORIZATION RATE. (Continued)**

payment is amortized for purposes of refund to residents who withdraw after the probationary period include: the amount or value of the accommodation fee, the charge for care and services, the per capita cost, the size of the facility, the kinds of services offered, and the types or combination of residents (monthly boarders, continuing care, etc.). Since these factors differ for each facility, the amortization rate will vary, e.g., higher amortization rates may be permitted if the facility charges unusually low accommodation fees in comparison with per capita cost. The rate of amortization shall be subject to approval by the department.

**33117. PAYMENT OF REFUNDS.** Refunds shall be made at the time of termination. Because of the problem of support of an aged person and his inability to move freely, refunds should be made as quickly as possible.

(a) **Refunds at Termination.** Refunds in instances where the resident is dismissed or discharged by the facility and for residents who voluntarily withdraw during the probationary period shall be paid at the time of termination. The length of the notice of termination required of residents who withdraw after the probationary period should provide sufficient time to the facility so that it can make the refund on the date of termination.

(b) **Accommodation Fees Used to Construct Facility.** Facilities which use accommodation fees to construct their facility may be allowed to delay the full payment of refund for residents who voluntarily withdraw after the completion of their probationary period. The agreement may stipulate that the refund of a member who voluntarily withdraws from the facility after the completion of the probationary period is subject to the resale of the vacated accommodations with one-half of the refund to be paid at the time of withdrawal and the remainder to be paid upon the resale of the accommodations or six months after date of termination, whichever is earlier. However, within three years from the date of opening, these facilities shall revise their new agreements to provide for complete refund at date of termination.

**33119. REFUNDS UNDER SECTION 16308 (W&I Code).** Refunds in accordance with Section 16308 (W&I Code) shall be made for any resident who voluntarily withdraws during the probationary period, and for any resident who is discharged or dismissed by the facility at any time (during or after the probationary period). The resident shall be refunded an amount equal to the difference between all amounts paid in by the resident and the cost of caring for the resident based upon the facility's per capita cost.

If the facility does not normally show depreciation in its financial statements, it may, nevertheless, compute depreciation for purposes of refund under this section. Nothing in these regulations precludes the facility from leaving out costs of depreciation, or any other costs, from refund calculations if it so desires.

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WITH THE SECRETARY OF STATE**

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**33119. REFUNDS UNDER SECTION 16308 (W&I Code)  
(Continued)**

(a) **Cost of Care.** The per capita cost for each fiscal year of residence (on a year-to-year basis) shall be used to determine the cost of caring for a particular resident for that year or any portion thereof. Costs for the year of separation shall be based upon the prior year's per capita cost unless the facility can establish costs for the period.

For residents purchasing less than the full range of services offered by the facility, refunds may be based upon the per capita cost of the agreed-upon services and may exclude any portion of the per capita cost pertaining to services not purchased.

(b) **Above-Standard Accommodations.** In cases where a consideration greater than the minimum charge has been paid for accommodations which are above-standard, the facility may include an additional amount in the resident's cost of care based upon the ratio of the amount paid to the minimum consideration for standard accommodations times the current per capita cost and applied to the period the aged person was in residence. This additional amount may not be included in the cost of care if: (1) the resident occupied above-standard accommodations but only paid for standard accommodations, or (2) all accommodations are available at one standard charge even though some accommodations qualify as above-standard.

(c) **Other Charges.** The facility is permitted to retain the processing fee in addition to an amount equal to the cost of caring for the resident as indicated above. If the agreement stipulates, the facility is also allowed to retain an amount equal to the cost of repairing the accommodations for damages by the resident which go beyond ordinary wear and tear. Costs of renovating the accommodations for a new occupant because of ordinary wear and tear may not be charged against the resident.

**33121. PAYMENT OF FEES.** Agreements which require the payment of a monthly care fee shall clearly stipulate that occupancy and use of the accommodations by the resident is contingent upon the regular payment of the prevailing monthly care fee.

The agreement shall include the regular rate of payment agreed upon (per day, week or month) and a clear statement as to whether payment will be made in advance or after care has been given.

**33123. CHANGES OR INCREASES IN FEES.** Advance notice of not less than 30 days is required whenever the facility changes either the scope or the rates for care and services regardless of whether the change involves the basic rate or only those services available at additional cost to the resident.

The escalator clause in the agreement, which permits the facility to increase the resident's basic monthly care fee, shall include reasonable limitations which will properly safeguard the aged person.

The escalator clause shall specify (1) a maximum increase, or percentage, permitted in any one year, and (2) a maximum increase, or percentage, permitted during the life of the agreement. In addition, for the facility whose property is tax exempt, provision may be made that in the event it is required to pay property taxes, or in-lieu taxes, at

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33123. CHANGES OR INCREASES IN FEES.**

**(Continued)**

some future date such additional costs will be charged to the resident on a pro rata basis.

Following is a list of the different basic policies which may be used by the facility with regard to changes or increases in the basic monthly care fees. The selected policy should be carefully considered. The facility may change its basic policy by submitting the proposed revision to the department for approval.

(a) Fees shall not be subject to change during the lifetime of the agreement.

NOTE: This type of policy is more likely to be established by facilities which require the resident to convey to the facility all current and future property, real or personal, owned by the aged person or in which he has any interest. Facilities with large endowment funds or trusts are also likely to use this policy.

(b) Fees shall not be increased by more than a specified number of dollars in any one year and not more than a specified number of dollars during the lifetime of the agreement.

NOTE: The specified dollar limitation enables the aged person to properly determine his chances of remaining in the facility for his or her lifetime as the dollar limitation must be stipulated in the agreement. The dollar amounts (per month, per year and for the lifetime of the agreement) are subject to the department's approval. The facility may use the same dollar limitation for all of their agreements or they may use a sliding scale which will vary for each agreement on the basis of the individual's basic monthly fee.

(c) Fees shall not be increased in excess of a specified percentage over the preceding year and not more than a specified percentage during the lifetime of the agreement.

NOTE: A specified percentage limitation enables the aged person to properly compute the dollar increase which will be applicable during his or her lifetime. The percentages (per month, per year and for the lifetime of the agreement) are subject to the department's approval.

(d) Fees shall be adjusted in accordance with changes in the facility's per capita cost (economic necessity).

NOTE: This type of policy enables the facility to adjust care fees on the basis of increases in actual costs of operation. The aged person is assured that rate increases are required by economic necessity. The facility shall post the per capita cost at the end of each fiscal year so residents may be aware of the trend or direction of costs which have a direct bearing on their monthly care fees.

The dollar or percentage limitation policies, described in Items (b) and (c) above, are to be based upon increases in the per capita cost if the agreement stipulates that increases in monthly care fees will be made on the basis of "economic necessity." The dollar or percentage limitation shall be the effective maximum regardless of how high operational costs may be.

(e) Fees shall be adjusted in accordance with changes in the Consumer Price Index (cost of living).

NOTE: This type of policy enables the facility to adjust care fees on the basis of changes in the cost of living as reflected in the Consumer Price Index for San Francisco, Los Angeles, Statewide or Nationwide. The agreement shall

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000237

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33123. CHANGES OR INCREASES IN FEES. (Continued)**

show which index is to be used. The latest Consumer Price Index shall be shown in the agreement. The facility will also determine if the fiscal or calendar year index shall be used.

**33125. SUBSIDIZED RESIDENTS.** Provision may be made in the agreement for residents who become financially unable to pay for their monthly care fees at some future date. The agreement may stipulate that the resident shall apply for any public assistance or other aid for which eligible; that the facility may apply on behalf of the member; or the facility may terminate the member's agreement because of his or her refusal to apply for such aid. The facility may specify it will accept such aid payment as full payment for the resident's cost of care and in addition, it may specify the amount of income, if any, which may be retained by the resident for incidental and personal expenses. In any case, such provisions as will apply shall be included in the agreement.

The facility shall be the final and conclusive determining body of any adjustments to be made or any action to be taken regarding any charitable consideration to be extended to any of its residents.

Since any fees set by the facility for a resident who is subsidized in whole or in part by the facility are based upon representations made by the resident at the time of application as to his financial position and assets, the agreement should provide for the payment or entitlement of actual costs of care from any property acquired by the resident subsequent to the adjustment or from any property not disclosed by the resident at time of application.

The facility may pay the monthly premium of the resident's health insurance coverage under Medicare to insure such payments will be made. The facility may receive an assignment from the resident of the right to apply for and to receive said benefits, for and on behalf of the resident. The facility may also include a provision to the effect that it shall not be responsible for the costs of furnishing the resident with any services, supplies and medication for which reimbursement is available from any governmental agency.

**33127. CHANGE OF ACCOMMODATIONS.** Provision must be made for the transfer of a resident, excepting for temporary illnesses, whenever he or she:

(a) Is not able to leave the room without the assistance of another person during an emergency (room is not approved for use by a non-ambulatory resident by the State Fire Marshal).

(b) Becomes mentally ill,

(c) Requires treatment in the home's infirmary for more efficient care and/or to protect the health of other residents,

(d) Requires treatment in a nursing home or hospital (home has no available facilities), or

The general procedures and conditions under which such transfers are to be made must be clearly stated in the agreement. The agreement shall state the financial adjustment for a resident who permanently

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FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**33127. CHANGE OF ACCOMMODATIONS (Continued)**

moves to an infirmary unit, nursing home or hospital and releases his accommodations.

When the resident recovers and is released from the infirmary unit, nursing home or hospital, if the facility has any responsibility to resume care of the person, such conditions of readmission shall be covered in the agreement. If the facility accepts no responsibility upon the resident's release, the agreement shall specify a refund provision at the time the resident leaves.

Whenever the facility needs to move a resident from one living accommodation to another, he or she shall be entitled to one of equivalent value or to an adjustment of the accommodation fee.

**33129. DUAL ACCOMMODATIONS (SURVIVORSHIP PREFERENCE):** Where the room or suite is shared, provision for the effect of death or removal of one of the residents must be included in the agreement. Movement to another living unit should be at the discretion of the remaining resident. The agreement shall specify the monthly fee applicable to single occupancy in such a unit if a resident elects to remain. If the survivor transfers, the agreement shall specify how the monthly rate is affected. Regardless of whether the member elects to remain in the unit or decides to take a different unit, the agreement shall specify whether the original accommodation fee, or any part thereof, will be refunded.

**33131. BURIAL.** The continuing care agreement may include provisions for burial and for final disposal of furnishings and personal possessions. The resident may be required to:

- (a) Provide for his or her burial in a will to be executed before completion of the probationary period,
- (b) Establish and maintain a trust fund of a specified amount for the payment of funeral and burial expenses,
- (c) Leave the arrangements at the discretion of the facility, or
- (d) Carry funeral insurance.

It is desirable to have both the burial arrangements and the resident's will completed prior to admission. The facility may include in the continuing care agreement a maximum amount it will pay for funeral and burial expenses if the resident's estate is not sufficient to defray such costs.

**33133. MEDICAL HISTORY.** The facility may limit its responsibility for costs associated with the treatment or medication of an ailment or illness existing prior to the date of admission. In such case, the medical or surgical exceptions, as disclosed by the medical entrance examination, shall be listed in the agreement or in the medical report which may be attached and made a part of the agreement.

The facility may specify a time limit for which it will not assume responsibility for pre-existing medical or surgical conditions.

**33135. CARE AWAY FROM THE PREMISES.** Costs of outside medical services may be paid at the discretion of the facility and any limitations should be specified in the agreement. The agreement

**CONTINUATION SHEET**  
**FILING ADMINISTRATIVE REGULATIONS**  
**WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33135. CARE AWAY FROM THE PREMISES (Continued)**

should designate if any support, maintenance, board or lodging is to be supplied to a resident who requires medical attention when he or she is absent from the premises.

If any credit is to be given to a resident who is absent from either the premises or from meals for any period of time, allowances may be made in the agreement. If such credit is to be permitted at the discretion or by special permission of the facility, the agreement shall so specify.

**33137. SUBORDINATION.** The facility shall not subordinate the resident's rights to "any" mortgage or deed of trust except with specific approval of the department. If it is necessary to subordinate the resident's rights to a mortgage or deed of trust required to secure property on which the resident will reside or for a construction loan, the specific mortgage or deed of trust and any extensions or renewals thereof for which subordination is requested shall be clearly spelled out in the continuing care agreement.

In the event of liquidation, continuing care agreements shall be deemed a preferred claim against all assets owned by the facility and the subordination determines prior claim status. See Section 16305, W&I Code.

**33139. PROPRIETARY INTEREST.** The continuing care agreement may include a provision indicating the resident's rights under the agreement do not include any proprietary interest in the assets of the facility. The resident's interest, in the event of liquidation, are protected by the preferred claim status under Section 16305 of the Welfare and Institutions Code.

**33141. OBSERVANCE OF RULES AND REGULATIONS.** If the agreement incorporates by reference the home's "Rules and Regulations" as a part of the agreement, a copy of the rules and regulations shall be submitted with the agreement form when it is forwarded to the department for approval.

If the incorporation of the rules and regulations as a part of the agreement is extended to apply to any "reasonable amendments or changes thereto," the facility shall forward a copy of the rules and regulations when the first agreement form is submitted for approval but the amendments or changes are not required to be submitted.

Provision whereby the resident agrees to accept responsibility for any guests in the observance of rules and regulations may be included in the agreement.

**33143. REPRESENTATIONS.** The agreement may provide for the agreement to be voidable at the option of the facility if any misrepresentation or material omission has been made by the resident.

**33145. ADMISSIONS AND DISMISSALS OF OTHER RESIDENTS.** The right of admission, terms of admission or dismissal shall be vested in the facility and a resident may not appeal admission, terms of admission or dismissal of any other resident.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

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**33147. RIGHTS AND PRIVILEGES ARE PERSONAL.** Transfer or assignment of the resident's rights and privileges under a continuing care agreement may be restricted because of the personal nature of the agreement by a provision to this effect.

**33149. WAIVER OF ONE BREACH NOT A WAIVER OF ANY OTHER.** A clause may be inserted to protect the facility in case it may wish to waive any of the terms or provisions of the agreement in specific instances where the resident has breached the contract without relinquishment of its right to insist upon strict compliance by the resident with all of the other terms or provisions.

**33151. LIABILITY FOR NEGLIGENCE.** The agreement may provide for the reimbursement of any loss or damage suffered by the home as the result of carelessness or negligence on the part of the resident, except for any loss or damage for which the facility receives insurance.

**33153. INJURIES TO THE RESIDENT.** The facility may not absolve itself from liability for past or future negligence by an agreement to that effect. The agreement may provide that the resident agrees to observe off-limit areas as designated by the facility and is prepared to assume responsibility for accidents occurring in such cases.

**33155. SUBROGATION RIGHTS.** Subrogation rights, if any, of the home against third parties for expenses incurred by reason of injury to a resident shall be clearly defined in the agreement.

In addition, if the facility so desires, it may provide for the cancellation of any unpaid charges if it is satisfied that the resident or the resident's legal representative has diligently pursued any claim for compensation due from third parties for injury to the resident and recovery was insufficient to fully compensate the facility or that there was no recovery.

**33157. PROPERTY OF RESIDENT.** The facility may protect itself concerning the safeguard of personal articles or property brought to the facility by residents or the responsibility for the loss of any property due to theft, fire or other causes, excepting negligence on the part of the facility. The facility is not permitted to absolve itself from future negligence by a contract to that effect. The agreement shall specify that the resident has the responsibility for providing any desired insurance protection to cover such loss.

Permission to remove personal property from the resident's room after death or permanent transfer to a nursing home or hospital shall be covered in the agreement.

**33159. RIGHT OF ENTRY.** The facility's right of entry into the resident's living accommodations may be specified in the agreement. Entry for emergency purposes may be included in the facility's rules and regulations.

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

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**33161. APPOINTMENT OF A CONSERVATOR OR GUARDIAN.** Provision should be made for the appointment of a conservator or guardian by a court of competent jurisdiction in the event a resident becomes unable to handle his or her personal or financial affairs.

**33163. FINANCIAL CONDITION OF THE FACILITY.** The continuing care agreement shall have a copy of the facility's latest financial statement attached (figures to coincide with those filed with the department) showing the facts pertinent to the financial condition of the facility, or if the financial statement was provided prior to the execution of the agreement, it shall so indicate in the agreement.

**33165. RIGHTS AND POWERS TRANSFERRED.** Rights and powers of the facility under continuing care agreements may be transferred to a successor, subject to the department's approval as required by Section 16315 (W&I Code).

00242

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**SUBCHAPTER 3. FINANCIAL REQUIREMENTS**

**Article 1. General Provisions**

**33167. BONDING.** All personnel of the facility who handle funds or property shall be bonded by a primary commercial blanket bond or a blanket position bond in the minimum amount of \$50,000, containing a rider which provides that the coverage of the bond extends to all personnel of the facility whether or not compensated by the facility.

**33169. AUDITS AND INSPECTION.** The facility's books, records, and facilities shall be available to and open for inspection and/or audit by the department at all reasonable times by any authorized representative of the department.

**33171. FINANCIAL STATEMENTS.** Financial statements filed in the support of an application for a Certificate of Authority shall be prepared in accordance with generally accepted accounting principles. A corporation or entity which owns and operates a facility licensed by an appropriate licensing agency in addition to other operations shall include a consolidated statement of total operations in addition to financial statements for the facility which is licensed.

The department reserves the right to reject any financial report and to call for additional information, reports, or to make further investigation or examination as it shall deem proper. The department may require interim financial statements.

Any appraisal, engineering or other such technical report prepared in support of financial statements shall be made by appropriately qualified personnel. All appraisals shall show the basis and method of valuation. The department may require technical reports to be verified and/or certified. The expense of any technical reports or any verifications thereof shall be borne by the applicant.

Organizations or persons who have a Certificate of Authority but do not have any continuing care agreements are required to submit an annual audit report although they are not required to maintain continuing care reserves. The facility will be required to return the certificate to the department if the annual audit report is not submitted when it is due.

**33173. FINANCIAL PLAN OF OPERATION.** The applicant shall submit a financial plan of operation for the department's approval. The plan of operation shall be financially sound and funds shall be sufficient to maintain the standards of service required by licensing regulations. The scope and size of the applicant's services shall be such that an adequate quality of service will be permitted from available funds.

(a) **Five Year Projected Cash Flow Statement.** A five-year cash flow statement shall be included in the plan of projected operation. Estimated receipts and expenditures shall be in accordance with sound budgeting.

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WITH THE SECRETARY OF STATE**

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### 33173. FINANCIAL PLAN OF OPERATION (Continued)

(b) **Rates and Fees.** A schedule of the proposed resident rates and fees shall be submitted with the plan of operation.

(c) **Estimated Income and Expenditures.** The statement of estimated income and expenditures for the first year of operation shall be prepared on a monthly basis and shall clearly show the amounts and sources of all income and the nature and amount of all expenditures. Staff services shall be divided into general functional classifications, such as executive and administrative, medical and nursing, food services, recreation, housekeeping and maintenance, and grounds and gardens. The estimates shall include sufficient staff for vacations and regular time off replacements for all employees.

(d) **Mortgage.** If the property is mortgaged, a copy of the mortgage shall be submitted with the plan of operation. If property is to be leased, the proposed lease agreement shall be submitted for the department's approval. If the applicant has a loan commitment for financing its mortgage, a copy of the commitment shall be submitted.

(e) **Audited Financial Statements.** A copy of audited financial statements shall be submitted with the plan of operation. The department may accept an interim statement in lieu of the audited statements if sufficient proof of ownership is provided by the applicant.

#### Article 2. Continuing Care Reserves

**33175. STATUTORY RESERVE REQUIREMENTS.** Any organization or person which enters into continuing care agreements under the authorization of a Certificate of Authority is required to maintain adequate continuing care reserves in accordance with Section 16304 (W&I Code) to cover the obligations assumed under executed continuing care agreements.

Even if the certificate is suspended, revoked or voluntarily returned by the facility, continuing care reserves are still required for any remaining continuing care residents. To protect the remaining continuing care residents, the facility shall (a) post a performance bond under Section 16302 (W&I Code), (b) place funds in trust on behalf of the residents, or (c) file a notice of lien on the facility's property in favor of the department.

**33177. ANNUAL AUDIT REPORT AND SUPPLEMENTAL INFORMATION.** Certificate holders shall submit an annual report (in duplicate) to the department (Fiscal Division) which shall include the followings parts:

- (a) A balance sheet
- (b) A statement of income and expense
- (c) The auditor's opinion on the financial statements
- (d) The auditor's opinion (certification) on continuing care reserves
- (e) A statement on per capita cost
- (f) A statement of continuing care reserves
- (g) A statement (evaluation) of assets available for continuing care reserves

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33177. ANNUAL AUDIT REPORT AND  
SUPPLEMENTAL INFORMATION (Continued)**

- (h) A schedule of resident changes.
- (i) A list of current members on the Board of Directors and/or Trustees and their addresses.

**33179. ANNUAL AUDIT REPORT REQUIRED.** Any organization or person which has a Certificate of Authority shall have an annual audit made of its financial statements by a Certified Public Accountant or a Public Accountant. The auditor shall render an opinion on the financial statements. Notes to financial statements, if required, shall be included.

Two copies of the audit report shall be mailed to the department not later than four months after the close of the facility's fiscal year. Facilities which have a certificate but do not have any continuing care residents are required to submit an annual audit report which shall include the auditor's opinion, although continuing care reserves are not required.

Facilities which have had their certificates suspended or revoked and were required to set up a trust fund for remaining continuing care residents or have a lien on their property (placed on behalf of the remaining continuing care residents) are not required to file an annual audit report.

**33181. INTERIM REPORT.** For a new facility an interim six-months' report is required. The interim report need not be formally certified. Normally, a progress report such as is presented to the Board of Directors and/or Trustees is sufficient.

**33183. OPINION ON CONTINUING CARE RESERVES.** The supplemental report shall include an opinion (certification) by the auditor that the statement of continuing care reserves has been prepared in accordance with the regulations. It shall also state whether the facility has sufficient reserves and if not, the amount of any deficiency with regard to total continuing care reserves and/or liquid reserves.

In order to determine if the facility's overall financial planning is on a sound basis, the statement on reserves shall also indicate if the facility has sufficient reserves for its commitments to all of its residents by including reserves for persons not required to be included by these regulations.

The facility shall maintain the records upon which the continuing care reserves are based. Test checks of these records by the auditor may be sufficient for him to render an opinion on their accuracy.

**33185. STATEMENT ON PER CAPITA COST.** Computations shall be made in accordance with procedures outlined in Section 33011.

**33187. COMPUTATION OF CONTINUING CARE RESERVES.** Continuing care reserves are based upon the facility's per capita cost of caring for the resident for the remainder of his or her life. If the resident paid less than the cost of his or her care, the facility will be required to subsidize the resident from other sources of income or by increasing its schedule of care fees.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33187. COMPUTATION OF CONTINUING  
CARE RESERVES (Continued)**

Continuing care reserves are computed in two ways depending upon whether the continuing care resident makes a prepayment for all charges (accommodation fee plus the lump-sum care fee) or if the resident is committed to the payment of a monthly care fee in addition to the prepaid accommodation fee.

(a) **Prepayment.** Continuing care reserves for the totally prepaid residents are determined by multiplying the annual (fiscal year) per capita cost by the sum total of the annuity factors for all prepaid continuing care residents. In lieu of adding the annuity factors for each individual, the annuity factor based on the average age for men plus the annuity factor based on the average age for women may each be multiplied by the total persons in each group and then multiplied by the per capita cost.

(d) **Monthly Care Fee.** Computation of reserves for residents who pay a monthly care fee require that the per capita cost be reduced by the annual payment (monthly care fees) made by continuing care residents. The remainder is multiplied by the sum total of the annuity factors for each group of continuing care residents who pay the same annual payment.

If the monthly care fees equal or exceed the per capita cost, continuing care reserves would not be required. The excess may be used to offset reserves required for other continuing care residents. The latest announced monthly care fee shall be used.

(c) **Subsidies.** Reserves for residents who are subsidized, whether individually or on behalf of all residents in general, may be reduced by the amount of contributions, donations or endowments which the facility was able to use for operational expenditures during the fiscal year. The donated amount is deducted from the operating costs before the per capita cost is determined. Contributions which are restricted for capital outlay or are carried over to the next fiscal year may not be deducted in the current fiscal year.

(d) **Average Age.** The average age for the group making the same (dollar amount) monthly payment may be used if the group is large enough to warrant saving time by use of this short-cut method.

(e) **Reduced Reserves.** Reserves shall be reduced for continuing care residents purchasing less than the full range of services offered by the facility. The reserves shall be based upon the per capita cost of the agreed-upon services.

**33189. TABLE OF MORTALITY.** All continuing care agreements entered into on or after January 1, 1958, shall be subject to the 1937 Standard Annuity Table set back one year for males and six years for females. An interest assumption of not more than 3 percent per annum may be permitted for facilities which have been in operation for at least three complete fiscal years and which are earning a net rate of return of at least 3 percent per annum on the required reserves. Higher interest rates of up to 5 percent may be authorized for facilities

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33189. TABLE OF MORTALITY (Continued)**

which earn a higher net rate of return. Facilities in operation less than three complete fiscal years or earning less than 3 percent shall use annuities without any adjustment for interest.

McClintock's Table of Mortality with interest at 2½ percent per annum may be employed in connection with care agreements entered into prior to January 1, 1958, in lieu of the 1937 Standard Annuity Table.

When selecting the proper annuity factor, use the resident's age, as of the last day of the fiscal year, to the nearest six months.

**33191. RESERVES NOT REQUIRED.** (a) Probationary Periods. Continuing care reserves are not required for residents who are serving probationary periods (usually from three to six months) since the facility or the resident may cancel the agreement during this period. The reserve is established after the period of probation has elapsed.

(b) Continuing Care. Reserves are not required for residents who are not defined as "continuing care" under this chapter.

(c) Transferred Residents. Reserves are not required for a former continuing care resident if the person has been transferred to another facility, provided the facility is not obligated to continue to pay for the person's care. Monthly care fees paid to the facility by a (former) resident when the money in turn is relayed to another facility does not constitute payment by the facility and reserves are not required.

(d) Public Assistance and Medi-Cal Residents. Residents for whom payments are being received under the Medi-Cal program and those who are recipients of public assistance aid grants do not require reserves after the accommodation fee has been amortized under the provisions of their continuing care agreements.

(e) Older Persons. Reserves are not required for residents who are 100 years of age or older.

(f) Facilities Not Subject to Certification Until October 1, 1967. Organizations or persons who were not required to obtain a Certificate of Authority prior to October 1, 1957, who furnish care exclusively under agreements which may be canceled by either party without cause, are not required to maintain reserves for residents who entered prior to October 1, 1957, under such agreements. Only a few such agreements are still in effect.

**33193. EVALUATION OF ASSETS AVAILABLE FOR RESERVES.** Continuing care reserves are assets owned by the facility as of the end of the fiscal year evaluated in accordance with the provisions of Section 16304, W&I Code.

Detailed figures shall be presented in the supplemental report to the department to indicate how the continuing care reserves were computed and the steps used in evaluating assets. Liquid reserves shall be evaluated first. The evaluation shall indicate the amount of the total and liquid reserves which are above or below minimum requirements.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

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**33195. LIQUID ASSETS.** At least 25 percent of the continuing care reserves must consist of liquid assets. Items which can be applied against the liquid reserve requirement are Cash on Hand, Cash in Banks, Building & Loan Certificates, and Securities.

**33197. CASH ON HAND.** Cash on hand and petty cash funds may be included in the liquid reserves without limit unless there is a restriction on the use of these funds and they are not available for operating expenditures.

**33199. CASH IN BANKS.** Deposits in commercial and/or savings accounts with banks may be included in the liquid reserves to the extent that such deposits are insured by the Federal Deposit Insurance Corporation. Branch banks are not considered separate banks.

A trustee account in the name of the facility for more than one resident, may be insured by the FDIC to the maximum insurable amount for each resident providing the name and interest of each person is shown on the facility's records and such records have been maintained in good faith and in the regular course of business. The portion of the accommodation fee which is refundable to the resident "constitutes" insurable trust funds. If no continuing care member has an insurable interest in excess of the FDIC insurable maximum, there is complete insurance coverage and the full amount of the trustee account may be included in the reserves.

**33201. BUILDING AND LOAN CERTIFICATES.** Investments in certificates issued by building and loan associations which are members of the Federal Savings and Loan Insurance Corporation may be included in the liquid reserves to the extent that such certificates are insured by the FSLIC.

**33203. SECURITIES.** (a) **Cash in Banks or Savings and Loan Associations.** Deposits in commercial and/or savings and loan associations in excess of the amounts insured by the FDIC may be included in the reserves for organizations which are rated "excellent" by Standard and Poor's (or any national rating agency).

(b) **Liquid Money Securities.** Highly liquid money securities, such as United States Treasury Bills, prime banker's acceptances, negotiable time certificates of deposit and short-term tax exempt notes may be included in the liquid reserves.

(c) **Stocks.** Stocks rated "excellent" by Standard and Poor's, or any national rating agency, may be included in the reserves in addition to those individually approved by the department. Mutual funds which meet the requirements of Section 16304.8 (W&I Code) must have the individual approval of the department before they are acceptable as proper reserves.

(d) **Bonds.** Any bonds rated "excellent" by Moody's, or any national rating agency, may be included in the reserves in addition to those individually approved by the department. Bonds, debentures

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33203. SECURITIES (Continued)**

and equipment trust certificates certified by the State Superintendent of Banks for legal investment by California savings banks may also be included in the reserves. Bonds which are legal investments for California savings banks under Sections 1354 to 1366, inclusive, of the Financial Code may also be permitted.

(e) **Life Insurance Policies.** Assignment of life insurance policies (by residents) to the facility permits the facility to include the cash surrender value of such policies as securities of the home.

(f) **Approved Securities.** The supplemental report shall include a list of the securities, showing their market values and the basis for inclusion in the reserves, i.e., on SDSW's approved list, rating by Standard and Poor's, rating by Moody's, or certified for use by California savings banks. The audit report balance sheet notes shall disclose market values of securities held by the facility. The facility is not restricted to the purchase of securities approved by the department but only approved securities will be recognized in the computation of continuing care reserves. Risk securities may not be retained by the facility if there is the possibility that continuing care reserves may be adversely affected by such retention.

(g) **Sinking Funds.** A sinking fund comprised of liquid assets may be included in the liquid reserves. If the sinking fund is a replacement fund subject to disbursements during the succeeding year for such items as the payment of principal and interest on mortgage or for operations, the fund may be included in the liquid reserves providing it is a liquid asset.

(h) **Replacement Funds.** Replacement funds which may only be used for capital improvements or repairs may not be included in liquid reserves. Replacement funds which may be used for operational costs or payments on mortgages or loans (or interest thereon) may be included in the liquid reserves.

**33205. TOTAL RESERVES.** Items which can be applied against the total reserve requirement are set forth in  

Receivable (Secured),	Investments, and	Notes Home Property.
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**33207. NOTES RECEIVABLE (SECURED).** Notes receivable secured by first deeds of trust and/or first mortgages may be included in the continuing care reserves if properly identified as being secured by firsts.

**33209. INVESTMENTS.** Real estate, or equities therein, held by the facility for investment purposes can be included in the continuing care reserves. Reserves shall include book value based upon cost less depreciation unless two appraisals are submitted for approval by the department, in which case, the average appraisal value shall be permitted. Depreciation on appraisal values shall be properly charged. Any encumbrances standing against the investment property shall be deducted from the net book value or from the average appraisal value less depreciation before investments are included in the reserves.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

### 33209. INVESTMENTS (Continued)

Investments owned by the home and located outside the State of California may be included in the reserves. Any property not used to care or house the residents is normally classified as investment property.

**33211. HOME PROPERTY.** (a) **Net Value.** The net value of real estate, furniture and equipment used to provide care and housing for residents of the facility are included in the reserves at a declining percentage in accordance with the following table. Newly purchased property or new construction is subject to the same valuation percentages for the particular fiscal year.

(b) **Valuation Percentages.** (Sections 16304.5 and 16304.6 of the W&I Code):

Fiscal year Ending In:	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76
Real Estate % =	60	58	56	54	52	50	48	46	44	42	40	38	36	34	32	30	28	26	25	→
Furniture & Equipment % =	50	48	46	44	42	40	38	36	34	32	30	28	26	25	→					

Fiscal years which end in January, February or March may use the previous year's valuation percentage.

(c) **Book Value.** Book value based upon cost less depreciation shall be used when applying the appropriate valuation percentage unless the facility submits two appraisals for approval by the department; in which case, the average appraisal value less any depreciation shall be permitted. All encumbrances (notes payable, trust deed payable or chattel mortgages) must first be deducted from the net book value or from the net appraisal value before the valuation percentage is applied. Include both secured and unsecured encumbrances. Liens required under Section 16301, W&I Code, shall not be deducted from the value of real or personal property in computing the reserves.

(d) **Appraisals.** Appraisals prepared by county assessors are acceptable by the department in addition to appraisals made by certified appraisal firms (real estate firms, etc.), Federal Housing Authority appraisals and appraisals prepared by persons holding MAI certificates (Master of Appraisal Institute).

**33213. OFFSETS AGAINST RESERVES.** Replacement funds required by such lending agencies as the Federal Housing Authority for capital improvements and repairs may be included in the total reserves by offsetting the funds against the note or mortgage payable.

Deposits made by aged persons who have indicated their intent to establish residence at some future date represent liabilities and shall be offset against liquid assets described above, if there are any, otherwise against any other assets described above.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33213. OFFSETS AGAINST RESERVES  
(Continued)**

Deposits which represent funds turned over to the facility by residents for safekeeping without relinquishing control thereof shall be offset against liquid assets described above, if there are any, otherwise against any other assets described above.

**33215. DEPRECIATION.** Depreciation shall be computed on building, building improvements, furnishings and equipment even though the facility does not normally show depreciation in its financial statements because of its nonprofit nature. Computations shall use the straight-line method using historical costs except that if appraisal valuations are used, depreciation must be taken on the total appraisal value.

**33217. SCHEDULE OF RESIDENT CHANGES.** A complete roster of continuing care residents is required in the initial report submitted by a certificate holder, including informational detail. Subsequent annual reports shall include only the additions and deletions for the fiscal year. The report shall include the following:

(a) **Number of Residents.** The number (amount) of residents in the facility at the beginning of the fiscal year, the number added, the number deleted and the number remaining at the end of the fiscal year. Show numbers separately for continuing care and for "others."

(b) **Additions.** A list of additions during the fiscal year for continuing care residents only, as follows:

- (1) Name of resident
- (2) Date of admission
- (3) Amounts paid for accommodation fee, continuing care prepayment and monthly care fee, if any
- (4) Birth date
- (5) Sex
- (6) Age at end of fiscal year
- (7) Annuity factor

If available, information as to which residents receive OAS grants or Medi-Cal benefits shall be supplied.

(c) **Deletions.** A list of deletions during the fiscal year for continuing care residents only, as follows:

- (1) Name of resident
- (2) Reason for leaving (withdrawal, dismissal or death)
- (3) Amount of refund, if any
- (4) Date of occurrence

**33219. STATEMENT OF RESERVES.** The auditor's statement on reserves shall consist of a dual summary of reserves: (1) statutory requirements in accordance with Section 16304 (W&I Code) and (2) requirements in accordance with sound financial planning on an overall basis which includes residents who (a) are serving probationary periods, (b) entered prior to October 1, 1957, and for whom statutory reserves are not required, (c) are subsidized by the facility, in part or

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33219. STATEMENT OF RESERVES (Continued)**

in whole, and (d) are recipients of OAS or Medi-Cal for whom reserves are not required after the accommodation fee has been fully amortized.

In lieu of providing the two computations of reserves, the auditor may elect to provide only the statement of reserves based upon sound financial planning (Item 2 above) which is also used for balance sheet purposes.

**33221. BONDING.** Verification of the appropriate bond required of the facility shall be included in the annual audit report showing the type and amount of the bond in addition to the name and address of the bonding agency.

**33223. CURRENT LIST OF BOARD MEMBERS.** The supplemental report shall include a list of current members on the Board of Directors and/or Trustees and their facility and/or official addresses.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

### SUBCHAPTER 4. PERMIT APPLICATION PROCEDURE

**33225. APPLICATION FOR PERMIT.** Any applicant for a Certificate of Authority who plans to construct a facility for the reception and care of aged persons may apply to the State Department of Social Welfare for a permit to issue and sell deposit subscriptions on continuing care contracts, subject to all of the impound regulations of this chapter, in lieu of posting the performance bond required under Section 16302 of the California Welfare and Institutions Code.

An application by an association or corporation shall bear the signature of the board president or other presiding officer. Any application filed for an unincorporated proprietary facility shall be signed by each person who will assume any financial and/or administrative responsibility.

An application for a Certificate of Authority and a copy of the license and/or licensing application are required to be submitted with the application for permit. The application shall contain a summary of all pertinent facts. All information included in the statements shall be current and up to date.

**33227. ELIGIBILITY FOR PERMIT.** A prospective applicant for a permit to issue and sell deposit subscriptions on continuing care contracts is eligible for a permit, if the applicant:

(a) Has applied for, or has received a license from one of the licensing agencies, and

(b) Meets all of the requirements of the appropriate state or local licensing agency which can be met prior to construction of the building, such as the proper organizational and management structure, an adequate financial base, an acceptable plan to provide care to aged persons and submission of building plans which meet licensing requirements and all applicable state and local ordinances.

**33229. DEBT SECURITIES.** Debt securities such as stocks, bonds, debentures, notes or other securities which are offered or sold by an applicant or licensee are subject to the permit requirements of the Corporate Securities Law. The facility must apply to the Division of Corporations for permission to offer or sell such securities.

**33231. FILING OF APPLICATION.** The application for permit to sell deposit subscriptions on continuing care contracts, on forms prescribed and supplied by the department, shall be completed and filed in duplicate with the department. A separate application is required to be filed for each facility which would require a Certificate of Authority.

**33233. INCORPORATION.** A facility operated under the auspices of a national organization or religious order need not be incorporated in the State of California to be eligible for a permit if it has a certificate issued by the Secretary of State of California authorizing it to do business in California.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

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**33235. ARTICLES OF INCORPORATION AND BYLAWS.** A copy of the Articles of Incorporation, Constitution and Bylaws shall be filed with the application for permit. A copy of any amendments shall also be attached.

If the applicant is a foreign corporation, it is required to furnish a copy of the certificate issued by the Secretary of State of California showing it is authorized to do business in this state.

A constitution shall be established setting forth the purpose of the organization. The bylaws shall set forth the functions of the organization and the means whereby the functions are to be carried out.

**33237. RESOLUTION.** A copy of the resolution authorizing the filing of the permit application shall be submitted with the application.

**33239. DIRECTORS' MINUTES.** A copy of any minutes of directors' or shareholders' meetings relating to the operation of the applicant's operation of the **facility** shall be submitted with the permit application.

**33241. PERMIT ISSUED.** On receipt of an application for permit, the department will review the attached plan of operation, identify any deviations from the regulations and when indicated, discuss with the Board and/or executive the applicant's plans to achieve full conformity with regulations.

A permit will be issued whenever it is found that all requirements are met. A permit may also be issued when there is substantial conformity with regulations if deviations are minor. Any deviations will be shown on the permit and corrective action must be taken before the department will consider the release of any impounded funds.

The permit to sell deposit subscriptions on continuing care contracts gives enough information so that it can be shown to each subscriber prior to the taking of subscription orders.

In the event the appropriate licensing agency lists any deficiencies which may be cause for a license denial, no funds shall be released from impound.

**33243. PERMIT DENIED.** Any denial of a permit application will be discussed in advance. Unless the application for permit is withdrawn, this discussion will be confirmed by a registered letter to the applicant. This letter will:

- (a) State that the application is denied.
- (b) List the reasons for denial.
- (c) Review the right of appeal and the time limit for filing an appeal (30 days).

If an appeal is filed, further proceedings will be conducted in accordance with the Administrative Procedure Act.

**33245. AMENDED APPLICATION.** Proposed major changes of corporate organization, operation or financing shall be submitted to the department for review and approval. Changes in the name of a corporation shall be filed with the department in addition to filing with the Secretary of State.

Changes in corporate identity without approval of the department automatically revoke the permit.

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

33247. **REVOCATION OF PERMIT.** A permit will be revoked if specific acts or conditions constitute lack of conformity with regulations and continue to exist after the applicant has been given a Notice of Violation and a reasonable time to correct the violations. If within 30 days an appeal is filed from this action, further proceedings will be conducted in accordance with the Administrative Procedure Act.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**SUBCHAPTER 5. DEPOSITARY (ESCROW AGENT)**

**33249. APPROVAL OF DEPOSITARY (ESCROW AGENT).**

The depositary (escrow agent) must be approved by the department.

**33251. SUBSCRIPTION PAYMENTS.**

Deposit subscription payments are to be paid by check, draft or money order. Such instruments are to be made jointly to the applicant and the depositary (escrow agent). If, through error, a subscription payment is made payable to the applicant or selling agent, the applicant or selling agent shall promptly endorse and deliver it to the depositary. The applicant or selling agent may not cash the instrument or deposit it in the applicant's or selling agent's account.

Selling commissions may not be paid from funds which are subject to impound.

The amount of the processing or filing fee required of the subscriber shall be specified in the deposit subscription agreement and is subject to approval of the department. The processing fee may be receipted separately and retained by the applicant as it is the only fee which is not subject to impound. However, the agreement shall indicate refund of the processing fee if the facility is not constructed, if the subscriber is not accepted for occupancy, or if the subscriber dies prior to the execution of the continuing care agreement. A processing fee or deposit of any kind *shall not* be collected until the permit is issued by the department.

**33253. DEPOSITS TO THE DEPOSITARY.**

Deposits by the applicant agency to the depositary (escrow agent) shall be made within 48 hours after their receipt from subscribers and shall be separately accounted for by the applicant. Deposits shall be accompanied by a duplicate copy of the executed deposit subscription agreement, a copy of the receipt given to the subscriber, and a deposit summary. The receipt documents shall be prenumbered.

**33255. RELEASE OF IMPOUNDED FUNDS.**

Funds deposited with the depositary (escrow agent) shall be subject to release only under the following conditions:

(a) Upon certification of an officer of the applicant agency for payment *directly to a subscriber* who terminated his deposit subscription agreement pursuant to the terms of the deposit subscription. The applicant agency may use the department's standard format for the refund of deposits to subscribers who withdraw.

(b) For payment to either the applicant agency or to any or all subscribers who have deposited funds in the escrow account upon written approval of the department.

**33257. PROGRESS REPORTS BY DEPOSITARY.**

Regular progress reports at least quarterly, preferably on a monthly basis, shall be sent by the depositary directly to the department. Reports shall show the name and address of the subscriber, the full value (amount) of his subscription, the amount deposited, the amount and name of any withdrawing subscribers (refunds), and the current balance in the escrow account.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

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**33259. EARNINGS ON IMPOUNDED FUNDS.** Escrow funds may be invested in highly liquid money securities such as certificates of deposit or in savings accounts in accordance with instructions of the applicant, but earnings may not be released to the applicant. Applicant's instructions shall specify the amounts and time periods if investments are to be in time certificates of deposit so as to coincide with the applicant's probable requests for release of funds and for anticipated refunds to subscribers.

The escrow agreement may specify the payment of interest to subscribers in cases of refund. If no interest is to be paid to subscribers, then interest earnings shall be included in releases to the applicant. However, if the facility is not constructed, interest is to be prorated to the subscribers even if the escrow agreement fails to specify the payment of interest to subscribers.

**33261. SALE OF DEPOSIT SUBSCRIPTIONS.** The selling of deposit subscriptions on continuing care contracts is limited to those specified in the permit application. The applicant may not delegate management of the subscription sales to any of its selling agents; it is solely responsible for all record keeping and the action of its agents.

The applicant agency, not the selling agents, must keep an accurate record of all expenses, maintain a file on subscription sales showing all sales and refunds, account for and keep under its control the proceeds of the sales and deposit funds within 48 hours of the sales to the impound account with the approved depository (escrow agent).

**33263. ESCROW AGREEMENT.** A copy of the proposed escrow agreement shall be submitted to the department with the permit application. The agreement shall include the depository's name and address, the applicant's name and address, specific orders regarding the release of impounded funds, provision for monthly progress reports to the department, the date for final release of all funds, instructions on the investment of impounded funds, orders regarding the depositing of funds in the escrow account, and the amount of the filing or processing fee which is to be excluded from impound.

Following any approvals required of the department, a copy of the executed escrow agreement shall subsequently be submitted to the department.

**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**SUBCHAPTER 6. GENERAL PROVISIONS**

**33265. DEPOSIT SUBSCRIPTION AGREEMENT.** The deposit subscription agreement on continuing care contracts must be approved by the department prior to the sale of any subscriptions. The deposit subscription agreement shall be prepared in triplicate. A duplicate of the original shall be returned to the subscriber and the triplicate copy shall be submitted to the depository (escrow agent).

The agreement shall indicate a full return of deposited funds, including the filing or processing fee to the subscriber if the subscriber is not acceptable for admittance to the proposed facility by the applicant. It shall also provide for the full return of deposited funds if the subscriber dies prior to entrance into the completed facility.

Reference to any other document requires an attachment of that document.

**33267. CONSTRUCTION COMPLETION.** If funds from deposit subscriptions *are the only funds* which will be used for construction, release of impounded funds to the applicant will not be authorized by the department until subscription sales amount to at least 85% of the total anticipated sales, providing the subscribed sales fully cover financial requirements, and construction is at least 50% complete.

Where the applicant has additional funds to be used for construction or has a firm loan commitment, subscription sales must be at least 50% of the total anticipated sales and construction is to be at least 50% complete before the release of impounded funds will be authorized. The particular circumstances of the applicant will be considered by the department.

No escrow funds shall be released unless the applicant has complied with the applicable licensing regulations. The appropriate licensing agency shall list any deficiencies which may be cause for a license denial; unless such deficiencies have been corrected, escrow funds will not be released.

**33269. EXTENDING DATE OF COMPLETION.** The permit application shall set forth the effective date of completion or opening of the facility or institution. No application for permit will be considered if the expected date of completion is more than 36 months from the date of the permit application.

Any requests for extensions of time must be made to the department in a formal request. Depending upon the circumstances of the individual applicant, extensions may be granted. Extensions will be conditioned upon certain notifications to subscribers.

**33271. LICENSE.** The applicant is required to submit a copy of the license or the license application, which has been filed with an authorized state or local licensing agency, with the permit application.

**33273. SALE OF STOCK.** Corporations which plan to offer or sell stock, bonds, debentures, notes or other debt securities of the applicant are required *in all cases* to apply to the Division of Corporations, Department of Investments, for authorization in accordance with the Corporate Securities Law.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

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**33275. SELLING AGENTS.** Selling agents for organizations or corporations which plan to offer or sell stock, bonds, debentures, notes or other debt securities of the applicant are required in all cases to be licensed by the Division of Corporations and must apply to that department for proper authorization.

Selling agents of the applicant are not required to be licensed by the Division of Corporations if they offer or sell only deposit subscriptions on continuing care contracts. The names of all selling agents and the compensation of each shall be included in the permit application. Each selling agent shall complete a Criminal Identification and Investigation clearance form in triplicate for submission with the permit application. If the applicant's selling agent is licensed to a security broker, a copy of the license may be attached to the application in lieu of a CII clearance form.

The applicant may not delegate management of the deposit subscription sale to any of its agents. It is solely responsible for all record keeping and for the actions of its agents.

Selling commissions may not be paid from impounded funds or from funds which are subject to impound.

**33277. BONDING.** All officers, directors, or selling agents responsible for handling funds shall be bonded.

**33279. PERMIT FILING FEE.** The department shall charge a filing fee for processing permit applications. The fee shall be based upon the amount of anticipated sales. No charge shall be made for amendments to permit applications.

**33281. CONTINUING CARE (OR ENTRANCE) AGREEMENT.** A copy of the proposed continuing care (or entrance) agreement shall be submitted with the permit application for the department's approval. If a separate document is used for an admission agreement, it shall be submitted in addition to a copy of the proposed resident application form.

After receipt of the department's approval, a copy of the continuing care agreement may be given by the applicant to prospective subscribers. The agreement may not be executed, however, until the Certificate of Authority has been issued by the department.

**33283. ADVERTISING.** Any report, circular, public announcement, certificate, financial statement, or any other printed matter or advertising material which is designed for or used to solicit or induce persons to enter into a deposit subscription agreement shall not contain any misrepresentations or omissions which have the effect of misrepresentations.

Any references to the name of any individual or organization shall clearly state the extent of financial responsibility assumed by that individual or organization on behalf of the applicant agency. A copy of any prospectus or advertising material prepared for distribution or publication shall be submitted with the application for permit or as soon thereafter as prepared.



**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATION  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33285. CRIMINAL RECORD CLEARANCE.** Criminal record clearance shall be obtained by the department from the Department of Justice, Bureau of Criminal Identification and Investigation and from the Division of Corporations for each officer, board member, partner, owner, management official and selling agent of the applicant agency on the basis of fingerprints and a name check. Each individual shall complete a CII clearance form in triplicate for submission with the permit application.

**SUBCHAPTER 7. FINANCES**

**33287. AUDITS.** An audit examination or spot check shall be made of the applicant's books and records during the first month the permit is issued and again before any impounded funds are released to the applicant. The department's audit shall include a review of the books maintained in the principal office of the applicant agency. An early examination will expedite the release of funds. The applicant's estimated date of the first release should be identified as early as possible so the audit can be scheduled.

The applicant's records shall be available to and open for inspection to the department at all reasonable times by any proper representative of the department at the principal office located as indicated on the application for permit. Any complete audit of records made by the department shall be made at the expense of the applicant.

**33289. FINANCIAL STATEMENTS.** (a) **Preparing Financial Statement.** Financial statements filed in support of an application for permit shall be prepared as outlined:

- (1) Statements shall ordinarily be prepared in accordance with generally accepted accounting principles.
- (2) The salary or compensation of officers, directors or managers of the applicant agency shall be specified.
- (3) The salary or commission paid to brokers or selling agents shall be specified.
- (4) Selling expenses shall be itemized in the statement.
- (5) Personnel shall include the number, technical grade and salaries and shall be sufficient in number to perform the functions of the applicant agency.

(b) **Additional Financial Statements.** The department reserves the right to reject any financial report and to call for additional information, reports, or to make such further investigation or examination as it shall deem proper. The department may require interim financial statements which may not necessarily require certification.

(c) **Technical Reports.** Any appraisal, engineering or other such technical report prepared for submission to the department shall be made by appropriately qualified personnel. All appraisals shall show the basis and method of valuation. The department may require technical reports to be verified and/or certified. The expense of any verifications or certifications shall be borne by the applicant.

(d) **Equity Pertaining to New Facility.** An application by a going concern for permission to sell deposit subscriptions on continuing care contracts shall include in its statement an account of the portion, or portions thereof, which shall be devoted to the new facility.

(e) **Consolidated Statement.** The audit report shall include a consolidated statement, in addition to individual financial statements, if the applicant has one or more subsidiaries or if the applicant is a subsidiary. The report should contain a balance sheet dated not more than 60 days preceding the filing date of the permit application. Additional audits may be required. An audit may be required to be certified.

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**CONTINUATION SHEET  
FILING ADMINISTRATIVE REGULATION  
WITH THE SECRETARY OF STATE**

(Pursuant to Government Code Section 11380.1)

**33289. FINANCIAL STATEMENTS. (Continued)**

(f) **Sound Financial Basis.** The applicant's plan of operation shall be soundly financed and funds shall be sufficient to maintain the standards of service required by regulations, to meet operating costs and in addition, to provide adequate financing for construction. The scope and size of the applicant's services shall be such that an adequate quality of service will be permitted from available funds.

(g) **Five Year Cash Flow Statement.** Receipts and expenditures of money shall be in accordance with sound budgeting. A five-year cash flow statement shall be included in the financial plan of operation. The statement should include property and income tax estimates to show that operations will not be adversely affected to a degree materially changing its economic position if proposed or future tax exemptions are not granted to the applicant.

(h) **Schedule of Rates and Fees.** A schedule of the proposed resident rates and fees shall be submitted with the permit application.

**33291. STATEMENT OF ESTIMATED INCOME AND EXPENDITURES.** The statement of estimated income and expenditures for the first year of operation shall present sufficient detail to clearly show the amounts and sources of all income and the nature and amount of all expenditures by months. Services of staff shall be divided into general functional classifications, such as: executive and administrative, medical and nursing, food services, recreation, housekeeping and maintenance, and grounds and gardens. The estimates shall include sufficient staff for vacations and regular time off replacements for all employees.

**33293. LOAN COMMITMENT.** If the applicant expects to finance construction by a mortgage, a copy of the loan commitment(s), or an affidavit by a loan officer of the prospective lending agency should be submitted with the permit application. If an FHA loan is contemplated, a copy of the FHA insurance commitment should also be submitted.

If the applicant already has a mortgage(s) on the property, a copy of the mortgage(s) shall be submitted. When property is to be leased, the proposed lease agreement shall be submitted for the department's approval.

DO NOT WRITE IN THIS SPACE